

11-26-2013

State v. Hawkins Clerk's Record Dckt. 41621

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

FARON RAYMOND HAWKINS,

Defendant-Appellant.

Supreme Court Case No. 41621

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the Fourth Judicial District, in and for the County of Ada.

HONORABLE MICHAEL MCLAUGHLIN

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

000002

DATED this 26th day of November, 2013.

For the Supreme Court

Dorothy Beaver for
Stephen W. Kenyon, Clerk

cc: Counsel of Record
District Court Clerk
District Court Reporter
Trial Court Administrator Larry Reiner

State of Idaho vs. Faron Raymond Hawkins

Date	Code	User	Judge
1/2/2007	NEWC	CH	Case Created - Indicted M0600093
	COMM	CH	Charge number 1: Commitment and Papers
		CH	Charge number 1: Defendant Transferred In - M0600093 D.01
		CH	Charge number 1: Count Indicted From - M0600093 D.01 C.001
		CH	Charge number 1: Bond Transferred From - M0600093 D.01 C.001
		CH	Charge number 2: Count Indicted From - M0600093 D.01 C.002
		CH	Charge number 2: Bond Transferred From - M0600093 D.01 C.002
		CH	INDICTMENT FILED
	ARRN	CH	Arraignment - 01/12/2007
1/5/2007	NOTC	SG	Notice - of Hearing
	MOTN	SG	Motion - for Bond Reduction
1/12/2007	ARRN	AH	Arraignment
	CONT	AH	Continued For Plea
1/17/2007	MOTN	SG	Motion - for GJ Transcript
	RESD	SG	Defendant Request For Discovery
1/24/2007	NOTC	KR	Notice - Of Preparation of Grand Jury Transcrip
2/9/2007	ARRN	AH	Arraignment - (Con't)
	CONT	AH	Continued For Plea
2/16/2007	APNG	KB	Charge number 1: Not Guilty Plea
	APNG	KB	Charge number 2: Not Guilty Plea
2/21/2007	ARRN	AH	Arraignment - (Con't)
		AH	Motn to Review Rulin on Bond
	JTSC	AH	Jury Trial Set - 05/07/2007
	HRSC	AH	Event Scheduled - Pre-Trial Conference - 04/20/2007
	HRSC	AH	Event Scheduled - Hearing - 03/09/2007
3/2/2007	MOTN	SR	Motion - for Court Ordered Law Library
	MOTN	SR	Motion - To Vacate
	MOTN	SG	Motion - to Vacate
	MOTN	SG	Motion - to Exclude Testimony
3/7/2007	HRSC	AH	Event Scheduled - Hearing - 04/06/2007
3/9/2007		AH	Hearing
3/12/2007	REQD	RC	State/City Response to Disc. Req.

State of Idaho vs. Faron Raymond Hawkins

Date	Code	User		Judge
3/16/2007		RC	State/City Request for Discovery	Michael McLaughlin
3/20/2007	NOTC	SR	Notice - of Hearing	Michael McLaughlin
	MOTN	SR	Motion - To Vacate/Suppress/	Michael McLaughlin
	HRSC	SR	Event Scheduled - Hearing - 03/23/2007 Compel Discovery/and Review Bond	Michael McLaughlin
3/23/2007	REQD	RC	State/City Response to Disc. Req. - /First Addendum	Michael McLaughlin
		AH	Hearing	Michael McLaughlin
	HRSC	AH	Event Scheduled - Hearing - 04/13/2007	Michael McLaughlin
3/29/2007	NOTC	SR	Notice - of Hearing	Michael McLaughlin
	MOTN	SR	Motion - for Hearing to Review Discovery	Michael McLaughlin
	MOTN	SR	Motion - To Compel Discovery	Michael McLaughlin
3/30/2007	MOTN	SR	Motion - To Compel	Michael McLaughlin
	NOTC	SR	Notice - of Hearing	Michael McLaughlin
4/2/2007	REQD	SR	State/City Response to Disc. Req. - /2nd Addendum	Michael McLaughlin
4/12/2007	NOTC	RC	Notice - of Hearing	Michael McLaughlin
	MOTN	RC	Motion - to Compel Discovery	Michael McLaughlin
	REQD	RC	State/City Response to Disc. Req. - /Third Addendum	Michael McLaughlin
4/13/2007		AH	Hearing	Michael McLaughlin
	HRSC	AH	Event Scheduled - Hearing - 04/27/2007	Michael McLaughlin
4/19/2007	JTSC	KB	Jury Trial Set - 06/25/2007	Michael McLaughlin
	HRSC	KB	Event Scheduled - Pre-Trial Conference - 06/15/2007	Michael McLaughlin
4/25/2007		KB	Amended Sch. Order	Michael McLaughlin
4/27/2007		KB	Hearing	Michael McLaughlin
5/4/2007	MOTN	SR	Motion - for Court Ordered Subpoenas	Michael McLaughlin
	MOTN	SR	Motion - To Vacate & Motion to Change Venue	Michael McLaughlin
	MOTN	SR	Motion - To Disqualify Judge McLaughlin	Michael McLaughlin
		SR	Affid of Defend	Michael McLaughlin
		SR	Discovery Filed	Michael McLaughlin
5/8/2007	REQD	RC	State/City Response to Disc. Req. - /Fourth Addendum	Michael McLaughlin
5/9/2007	HRSC	KB	Event Scheduled - Pre-Trial Conference - 06/01/2007	Michael McLaughlin

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Date	Code	User		Judge
5/9/2007	NOTC	KB	Notice - of Hearing/Reset PTC	Michael McLaughlin
5/14/2007	ORDR	KB	Order - Compelling Discovery	Michael McLaughlin
5/17/2007	MOTN	SG	Motion - to Suppress	Michael McLaughlin
	MOTN	SG	Motion - to Compel	Michael McLaughlin
	MOTN	SG	Motion - to Compel	Michael McLaughlin
	MOTN	SG	Motion - for Discovery	Michael McLaughlin
5/21/2007		RC	Supplement to Discovery	Michael McLaughlin
5/24/2007	REQD	AK	State/City Response to Disc. Req. - /Fifth Addendum	Michael McLaughlin
6/1/2007	CONT	KB	Pre-Trial Conference	Michael McLaughlin
	HRSC	KB	Event Scheduled - Hearing - 06/27/2007	Michael McLaughlin
	JTSC	KB	Jury Trial Set - 09/17/2007	Michael McLaughlin
6/4/2007	HRSC	KB	Event Scheduled - Pre-Trial Conference - 08/24/2007	Michael McLaughlin
6/5/2007		KB	Amended Sch. Order	Michael McLaughlin
6/27/2007		KB	Hearing	Michael McLaughlin
7/5/2007	REQD	RC	State/City Response to Disc. Req. - /Sixth Addendum	Michael McLaughlin
8/1/2007		SA	Memorandum Decision Re: Mtn to Compel	Michael McLaughlin
8/10/2007		RC	Motions Filed	Michael McLaughlin
		RC	Motions Filed	Michael McLaughlin
8/24/2007	CONT	KB	Pre-Trial Conference	Michael McLaughlin
	JTSC	KB	Jury Trial Set - 09/17/2007	Michael McLaughlin
8/30/2007		KB	State's Compliance w	Michael McLaughlin
		KB	PT order	Michael McLaughlin
9/6/2007	MOTN	KB	Motion - to Vacate	Michael McLaughlin
	MOTN	KB	Motion - for Discovery, Inter	Michael McLaughlin
		KB	& Motion to Dismiss	Michael McLaughlin
9/17/2007	HRSC	KB	Event Scheduled - Hearing - 09/21/2007	Michael McLaughlin
	ORDR	KB	Order - appointing PD	Michael McLaughlin
9/21/2007		KB	Hearing	Michael McLaughlin
	HRSC	KB	Event Scheduled - Hearing - 10/05/2007	Michael McLaughlin
9/28/2007		KP	State/City Request for Discovery	Michael McLaughlin
	REQD	KP	State/City Response to Disc. Req.	Michael McLaughlin
10/5/2007		KB	Hearing	Michael McLaughlin
	JTSC	KB	Jury Trial Set - 01/07/2008	Michael McLaughlin

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Date	Code	User		Judge
10/5/2007	HRSC	KB	Event Scheduled - Pre-Trial Conference - 12/28/2007	Michael McLaughlin
10/9/2007	HRSC	KB	Event Scheduled - Pre-Trial Conference - 12/21/2007	Michael McLaughlin
		KB	Amended Sch. Order	Michael McLaughlin
10/26/2007	MOTN	AU	Motion - to Remove PD	Michael McLaughlin
10/29/2007	HRSC	KB	Event Scheduled - Hearing - 11/02/2007	Michael McLaughlin
10/31/2007	HRSC	KB	Event Scheduled - Hearing - 11/02/2007	Michael McLaughlin
11/2/2007		KB	Hearing	Michael McLaughlin
	MOTN	KB	Motion - to Enlarge Time	Michael McLaughlin
		KB	for Discovery	Michael McLaughlin
	ORDR	KB	Order - Allowing Library	Michael McLaughlin
		KB	Access	Michael McLaughlin
11/5/2007	ORDR	KB	Order - Denying Enlargement	Michael McLaughlin
		KB	of Time for Discovery	Michael McLaughlin
11/7/2007	MOTN	RC	Motion - for Hearing & Notice to Set Hearing	Michael McLaughlin
11/15/2007	MOTN	SG	Motion - to Suppress & Extend Discovery	Michael McLaughlin
	MOTN	SG	Motion - for Discovery	Michael McLaughlin
11/19/2007	MOTN	SG	Motion - to Remove Counsel	Michael McLaughlin
11/28/2007	NOTC	KB	Notice - of Hearing	Michael McLaughlin
	HRSC	KB	Event Scheduled - Hearing - 12/20/2007	Michael McLaughlin
11/29/2007	NOTC	KB	Notice - of Hearing	Michael McLaughlin
	HRSC	KB	Event Scheduled - Hearing - 12/07/2007	Michael McLaughlin
12/7/2007		KB	Hearing	Michael McLaughlin
	HRSC	KB	Event Scheduled - Hearing - 12/13/2007	Michael McLaughlin
12/12/2007	MOTN	KB	Motion - to Quash Subpoena	Michael McLaughlin
12/13/2007		KB	Hearing	Michael McLaughlin
12/17/2007		AM	States Motion to Supplement Record	Michael McLaughlin
	NOTC	AM	Notice - of Hearing	Michael McLaughlin
	HRSC	AM	Event Scheduled - Hearing - 01/07/2008	Michael McLaughlin
12/18/2007	MOTN	AM	Motion - to Reconsider Mtn to Suppress & Set a New Hearing	Michael McLaughlin
12/21/2007	MOTN	AM	Motion - to Reconsider Mtn to Suppress/Set a New HR	Michael McLaughlin
		AM	Def Stip of Non Disclosure	Michael McLaughlin

State of Idaho vs. Faron Raymond Hawkins

Date	Code	User		Judge
12/21/2007	CONT	KB	Pre-Trial Conference	Michael McLaughlin
	HRSC	KB	Event Scheduled - Hearing - 01/02/2008	Michael McLaughlin
		KB	Defendant's Witness	Michael McLaughlin
		KB	List	Michael McLaughlin
	NOTC	AU	Notice - of Hearing	Michael McLaughlin
	MOTN	AU	Motion - to Quash Subpoenas	Michael McLaughlin
		AU	State Motion to Compel Discovery	Michael McLaughlin
12/26/2007	ORDR	KB	Order - Order Req. Item to	Michael McLaughlin
		KB	be Prod - DENIED	Michael McLaughlin
	ORDR	KB	Order - Req. Sub Items to be	Michael McLaughlin
		KB	Prod. - DENIED	Michael McLaughlin
	ORDR	KB	Order - Req. Sub. Items to	Michael McLaughlin
		KB	be Prod. - DENIED	Michael McLaughlin
12/28/2007		AM	States Amended List of Potential Trial Witnesses	Michael McLaughlin
12/31/2007	REQD	AM	State/City Response to Disc. Req. - /7th Addendum	Michael McLaughlin
1/2/2008		KB	Hearing	Michael McLaughlin
	MOTN	AU	Motion - to Misjoin	Michael McLaughlin
1/7/2008		KB	Hearing	Michael McLaughlin
	JTSC	KB	Jury Trial	Michael McLaughlin
	JTSC	KB	Jury Trial Set - 01/08/2008	Michael McLaughlin
		KB	Proposed Voir Dire	Michael McLaughlin
		KB	Questions	Michael McLaughlin
1/8/2008	MOTN	AU	Motion - to Vacate	Michael McLaughlin
	MOTN	AU	Motion - to Suppress	Michael McLaughlin
	JTSC	KB	Jury Trial	Michael McLaughlin
	JTSC	KB	Jury Trial Set - 01/10/2008	Michael McLaughlin
	ORDR	KB	Order - Quashing Subpoenas	Michael McLaughlin
1/9/2008	MOTN	KB	Motion - in Limine	Michael McLaughlin
1/10/2008	JTSC	JK	Jury Trial	Michael McLaughlin
	ORDR	SA	Order - for preparation of copy of transcript	Michael McLaughlin
	JTSC	KB	Jury Trial Set - 01/11/2008	Michael McLaughlin
1/11/2008		KB	Partial Transcript	Michael McLaughlin
		KB	Test. of Defendant	Michael McLaughlin
	JTSC	KB	Jury Trial	Michael McLaughlin

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Date	Code	User		Judge
1/11/2008	MOTN	KB	Motion - to Re-Address the	Michael McLaughlin
		KB	Jury	Michael McLaughlin
	FOGT	KB	Charge number 1: Defendant Found Guilty	Michael McLaughlin
	FOGT	KB	Charge number 2: Defendant Found Guilty	Michael McLaughlin
	HRSC	KB	Event Scheduled - Sentencing Hearing - 03/19/2008	Michael McLaughlin
	MOTN	KB	Motion - to Dismiss	Michael McLaughlin
	ORDR	KB	Order - Discontinuing Law	Michael McLaughlin
		KB	Library Use	Michael McLaughlin
		KB	Instructions to	Michael McLaughlin
		KB	Jury Filed	Michael McLaughlin
		KB	Jury Verdict Filed	Michael McLaughlin
1/16/2008	ORDR	KB	Order - for Psych Eval,	Michael McLaughlin
		KB	Funds & Access	Michael McLaughlin
1/18/2008	MOTN	AM	Motion - for New Trial/Mtn for Trial Transcript	Michael McLaughlin
		AM	Motion - for Mistrial	Michael McLaughlin
	MOTN	AM	Motion - for New Trial	Michael McLaughlin
	MOTN	AM	Motion - to Strike Verdict	Michael McLaughlin
	MOTN	AM	Motion - to dismiss Case	Michael McLaughlin
	MOTN	AM	Motion - to WDraw Mtn to Dismiss on Medical Grounds/Lack of Representation/Mtn to Request Ruling on mtn for Mistrial as Stated at Trial	Michael McLaughlin
			Motion - for Mistrial and	Michael McLaughlin
			Reinstatement of Mo.	Michael McLaughlin
	MOTN	KB	Motion - to Remove Counsel	Michael McLaughlin
			and for Pro Se Statu	Michael McLaughlin
1/23/2008	MOTN	AM	Motion - to Overturn Verdict Due to Tampering/ Coersion by the St	Michael McLaughlin
			Motion - to Reimpanel the Jury to Poll for Jury Tampering/Jury Instruction	Michael McLaughlin
	MOTN	AM	Motion - to Strike Verdict/ Mtn to Remove Cnsl/ Mtn for New Trial	Michael McLaughlin
			Cert of Service	Michael McLaughlin

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Date	Code	User		Judge
1/29/2008	HRSC	KB	Event Scheduled - Hearing - 01/31/2008	Michael McLaughlin
1/31/2008		KB	Hearing	Michael McLaughlin
	HRSC	KB	Event Scheduled - Hearing - 02/12/2008	Michael McLaughlin
	NOTC	KB	Notice - of Hearing	Michael McLaughlin
2/7/2008		KB	Partial Transcript	Michael McLaughlin
	MOTN	KB	Motion - for New Trial	Michael McLaughlin
2/11/2008		KB	State's Response to	Michael McLaughlin
		KB	Def's Motions	Michael McLaughlin
	MOTN	KB	Motion - for Trial Transcript	Michael McLaughlin
2/12/2008		KB	Hearing	Michael McLaughlin
	HRSC	KB	Event Scheduled - Hearing - 03/13/2008	Michael McLaughlin
2/14/2008	NOTC	SG	Notice - of Hearing	Michael McLaughlin
2/20/2008	MOTN	AW	Motion - to Dismiss Motion to Strike Verdict Motion for New Trial	Michael McLaughlin
	MOTN	AW	Motion - for New Trial Motion to Dismiss	Michael McLaughlin
	MOTN	AW	Motion - for	Michael McLaughlin
	MOTN	AW	Motion - to Dismiss Motion for New Trial	Michael McLaughlin
	MOTN	AW	Motion - for Pro Se Status & Low Library Access & Motion Hearing	Michael McLaughlin
		AW	Cert of Service	Michael McLaughlin
3/5/2008	MOTN	AU	Motion - for Motion Hearing & Motion for Withdrawal of Counsel	Michael McLaughlin
3/13/2008		KB	Hearing	Michael McLaughlin
	HRSC	KB	Event Scheduled - Sentencing Hearing - 04/23/2008	Michael McLaughlin
3/18/2008	MOTN	AB	Motion - to DQ and Dismiss	Michael McLaughlin
	MOTN	AB	Motion - to Dismiss	Michael McLaughlin
	MOTN	AB	Motion - to Dismiss	Michael McLaughlin
	MOTN	AB	Motion - to Dismiss Indictmen	Michael McLaughlin
		AB	Memo in Support	Michael McLaughlin
3/27/2008	ORDR	KB	Order - Denying Motions	Michael McLaughlin
4/7/2008		TCURQUAM	Motion to Reconsider Ruling on New Trial & Motion for New Trial Based on New Information	Michael McLaughlin
	MOTN	CCBROWKM	Motion for Transcripts	Michael McLaughlin
4/8/2008		TCURQUAM	Motion to ReClaim Property	Michael McLaughlin

State of Idaho vs. Faron Raymond Hawkins

Date	Code	User	Judge
4/8/2008		TCURQUAM	Motion for Stay of Imprisenment
4/17/2008		TCBUCKAD	Request for Ada County Prosecutor Phone Records
	MOTN	TCBUCKAD	Motion for New Trial Based on Prosecution Misconduct
4/23/2008	DCHH	CCBROWKM	Hearing result for Sentencing held on 04/23/2008 03:00 PM: District Court Hearing Held Court Reporter: Hohenleitner Number of Transcript Pages for this hearing estimated: less than 50
	ORDR	CCBROWKM	Order for DNA Sample
	ORDR	CCBROWKM	Order for Restitution & Judgment
	CGRA	CCBROWKM	No Contact Order: Civil Order Granted:
	JAIL	CCBROWKM	Sentenced to Jail or Detention (I18-6501 Robbery) Confinement terms: Credited time: 602 days. Penitentiary determinate: 30 years. Penitentiary indeterminate: 999 years.
	JAIL	CCBROWKM	Sentenced to Jail or Detention (I18-6501 Robbery) Confinement terms: Credited time: 602 days. Penitentiary determinate: 30 years. Penitentiary indeterminate: 999 years.
	FIGT	CCBROWKM	Finding of Guilty (I18-6501 Robbery)
	STAT	CCBROWKM	STATUS CHANGED: closed pending clerk action
	SNPF	CCBROWKM	Sentenced To Pay Fine 0.00 charge: I18-6501 Robbery
	FIGT	CCBROWKM	Finding of Guilty (I18-6501 Robbery)
		TCURQUAM	Motion for Release of Property
4/24/2008	JDMT	DCABBOSM	Judgment of Conviction
4/25/2008		TCURQUAM	Motion to Correct Record
5/2/2008	ORDR	CCBROWKM	Order to Release Computers
5/5/2008	DEOP	DCABBOSM	Memorandum Decision on Defendant's Motion for New Trial, Motion for Return of Property, Motion to Stay Imprisonment and Motion to Correct the Record
5/12/2008	NOTC	TCMCKEAE	Notice of Appeal
5/15/2008	ORDR	CCBROWKM	Order Appointing State Appellate Public Defender on Appeal
5/27/2008	NOTC	TCURQUAM	Notice of Appeal
6/4/2008	NOTC	CCTHIEBJ	Notice of Appeal
6/13/2008	NOTC	CCTHIEBJ	Amended Notice of Appeal
7/23/2008	MISC	TCBUCKAD	Defend's Objection to Restitution and Motion to Deny Restitution
7/28/2008	ORDR	DCABBOSM	Order Unsealing November 2, 2007 and January 2, 2008 Transcripts

State of Idaho vs. Faron Raymond Hawkins

Date	Code	User		Judge
8/22/2008	RULE35	TCBUCKAD	Motion for Reconsideration	Michael McLaughlin
1/13/2010	MISC	CCTHIEBJ	Opinion - Supreme Court Docket No. 35281	Michael McLaughlin
	MOTN	TCRAMISA	Motion to Transport	Michael McLaughlin
1/25/2010	ORDR	TCHOCA	Order To Transport Upon Remittuter	Michael McLaughlin
2/4/2010	STAT	CCTOMPMA	STATUS CHANGED (batch process)	
5/11/2010	REMT	CCTHIEBJ	Remittitur - Remanded Supreme Court Docket No. 35281	Michael McLaughlin
	HRSC	TCHOCA	Hearing Scheduled (Status 05/19/2010 01:00 PM)	Michael McLaughlin
	STAT	TCHOCA	STATUS CHANGED: Closed pending clerk action	Michael McLaughlin
5/13/2010	NOTC	DCJOHNSI	Notice of Status Hearing	Michael McLaughlin
	RSDS	TCPETEJS	State/City Response to Discovery/Supplemental	Michael McLaughlin
5/18/2010	ORDR	CCTHIEBJ	Order To Transport	Michael McLaughlin
5/19/2010	DCHH	TCHOCA	Hearing result for Status held on 05/19/2010 01:00 PM: District Court Hearing Held Court Reporter: Jeanne Hirmer Number of Transcript Pages for this hearing estimated: 50	Michael McLaughlin
	HRSC	TCHOCA	Hearing Scheduled (Review 06/16/2010 11:00 AM)	Michael McLaughlin
5/21/2010	MFBR	TCRAMISA	Motion For Bond Reduction	Michael McLaughlin
5/25/2010	ORDR	DCABBOSM	Order for Examination Under I.C. §18-211/18-212	Michael McLaughlin
6/15/2010	ORDR	TCHOCA	Order Transport for 6-16-10	Michael McLaughlin
6/16/2010	HRHD	TCHOCA	Hearing result for Review held on 06/16/2010 11:00 AM: Hearing Held	Michael McLaughlin
	MISC	TCHOCA	No Eval Yet/Court Continues Review Hearing for 8/18/10 @ 11:00 am and Bail Remains as set \$1,000,000.00	Michael McLaughlin
	HRSC	TCHOCA	Hearing Scheduled (Status Review of 18-211 Evaluation 08/18/2010 11:00 AM)	Michael McLaughlin
6/28/2010	ORDR	DCABBOSM	Supplemental Order	Michael McLaughlin
8/18/2010	DCHH	TCHOCA	Hearing result for Status held on 08/18/2010 11:00 AM: District Court Hearing Held Court Reporter: Kasey Redlich Number of Transcript Pages for this hearing estimated: Review 18-211 / 50	Michael McLaughlin
	HRSC	TCHOCA	Hearing Scheduled (Review 09/15/2010 11:00 AM) Dr. Estess Report	Michael McLaughlin
8/24/2010	ORDR	TCHOCA	Order for Examination Under 18-211, 18-212 from Dr. Estess	Michael McLaughlin
9/8/2010	CONT	TCHOCA	Continued (Review 10/20/2010 04:00 PM) Dr. Estess Report	Michael McLaughlin
9/13/2010	NOTC	CCTHIEBJ	Notice Of Review Hearing	Michael McLaughlin

State of Idaho vs. Faron Raymond Hawkins

Date	Code	User	Judge
10/18/2010	CONT	TCHOCA	Continued (Status 10/20/2010 09:00 AM)
	MISC	TCRAMISA	Waiver of Right to be Present at Status Conference
10/20/2010	DCHH	TCHOCA	Hearing result for Status held on 10/20/2010 09:00 AM: District Court Hearing Held Court Reporter: Susan Gambee Number of Transcript Pages for this hearing estimated: 50
	HRSC	TCHOCA	Hearing Scheduled (Status by Phone 10/26/2010 04:00 PM) (Attorney's Only)
10/27/2010	CONT	TCHOCA	Continued (Status by Phone 10/29/2010 09:30 AM)
10/29/2010	DCHH	TCHOCA	Hearing result for Status by Phone held on 10/29/2010 09:30 AM: District Court Hearing Held Court Reporter: N/A Number of Transcript Pages for this hearing estimated: 0
	HRSC	TCHOCA	Hearing Scheduled (Hearing Scheduled 11/12/2010 09:00 AM) on 18-212
	ORDR	DCJOHNSI	Order to Transport
11/3/2010	MOTN	TCRAMISA	Motion for Order for Delivery of Medical Records to the Ada County Prosecuting Attorney's Office Pursuant to the Health Insurance Portability and Accountability Act and IC 19-3004; ICR 17
11/5/2010	ORDR	TCHOCA	Order for Delivery of medical records to AC PA Pursuant to the Health Insurance Portability Accounting Act
11/8/2010	MOTN	TCBELLHL	Motion for Hearing on Retroactive Psych Eval
11/10/2010	SUBC	TCBROXLV	Substitution Of Counsel/Sutton
11/12/2010	DCHH	TCHOCA	Hearing result for Hearing Scheduled held on 11/12/2010 09:00 AM: District Court Hearing Held Court Reporter: Tiffany Fisher Number of Transcript Pages for this hearing estimated: on 18-212 /500 or Less
11/16/2010	MOTN	TCHOCA	Motion for Competency Hearing Audio and Written Transcripts
	ORDR	TCHOCA	Order Granting Competency Hearing Audio and Written Transcripts at Defendants Expense
11/22/2010	AFFD	TCRAMISA	Affidavit
	MISC	TCBROXLV	Competency Hearing Closing Argument
	STIP	TCRAMISA	Stipulation to Continue Closing Argument
11/23/2010	HRSC	TCHOCA	Hearing Scheduled (Hearing Scheduled 11/29/2010 08:30 AM)
11/24/2010	MOTN	TCRAMISA	Motion to Extend Time for Filing Closing Argument and Motion to Augment Record

State of Idaho vs. Faron Raymond Hawkins

Date	Code	User		Judge
11/24/2010	MOTN	TCRAMISA	Motion to Reopen Hearing and for Motion for Ineffective Assistance of Council	Michael McLaughlin
11/29/2010	DCHH	DCOATMAD	Hearing result for Hearing Scheduled held on 11/29/2010 08:30 AM: District Court Hearing Held Court Reporter: Leslie Anderson Number of Transcript Pages for this hearing estimated: less than 25 pgs	Michael McLaughlin
	HRSC	DCOATMAD	Hearing Scheduled (Motion to Withdraw 12/08/2010 11:00 AM)	Michael McLaughlin
	MOTN	CCNELSRF	Motion for Leave to Withdraw as Attorney of Record	Michael McLaughlin
	AFFD	CCNELSRF	Affidavit in Support of Motion for Leave to Withdraw as Attorney of Record	Michael McLaughlin
	AFFD	CCNELSRF	Affidavit of John Eric Sutton	Michael McLaughlin
12/1/2010	MOTN	TCHOCA	Motion to continue Closing is Denied	Michael McLaughlin
12/3/2010	TRAN	TCHOCA	Transcript Filed	Michael McLaughlin
12/6/2010	ORDR	TCHOCA	Order Regarding Defendant's Competence to Statnd Trial	Michael McLaughlin
12/7/2010	MISC	TCRAMISA	Second Affidavit of John Eric Sutton in Support of Motion to Withdraw as Counsel for Faron Raymond Hawkins	Michael McLaughlin
12/8/2010	DCHH	TCHOCA	Hearing result for Motion to Withdraw held on 12/08/2010 11:00 AM: District Court Hearing Held Court Reporter: Colleen Zeimantz Number of Transcript Pages for this hearing estimated: 50	Michael McLaughlin
	HRSC	TCHOCA	Hearing Scheduled (Status 12/15/2010 11:00 AM) Scheduling Conference	Michael McLaughlin
	AFFD	TCRAMISA	Affidavit	Michael McLaughlin
12/13/2010	ORDR	CCNELSRF	Order Appointing Public Defender	Michael McLaughlin
12/15/2010	DCHH	DCOATMAD	Hearing result for Status held on 12/15/2010 11:00 AM: District Court Hearing Held Court Reporter: Vanessa Gosney Number of Transcript Pages for this hearing estimated: Scheduling Conference -- less than 20 pgs	Michael McLaughlin
	HRSC	DCOATMAD	Hearing Scheduled (Jury Trial 04/11/2011 08:30 PM)	Michael McLaughlin
	HRSC	DCOATMAD	Hearing Scheduled (Pretrial Conference 03/23/2011 03:30 PM)	Michael McLaughlin
12/16/2010	MOTN	TCRAMISA	Motion for Permission to Appeal	Michael McLaughlin
12/17/2010	HRSC	CCNELSRF	Hearing Scheduled (Motion 01/26/2011 03:30 PM) Motion for Permission to Appeal	Michael McLaughlin
12/21/2010	NOHG	TCRAMISA	Notice Of Hearing	Michael McLaughlin
12/22/2010	ORDR	CCNELSRF	Scheduling Order	Michael McLaughlin

State of Idaho vs. Faron Raymond Hawkins

Date	Code	User		Judge
1/24/2011	MOTN	TCFARANM	Motion for Competency Hearing	Michael McLaughlin
	MOTN	TCFARANM	Motion to Misjoin	Michael McLaughlin
	MOTN	TCFARANM	Motion to Disqualify Judge for Cause Rule 25	Michael McLaughlin
	AFFD	TCFARANM	Affidavit In Support of Rule 25	Michael McLaughlin
1/26/2011	DCHH	TCHOCA	Hearing result for Motion held on 01/26/2011 03:30 PM: District Court Hearing Held Court Reporter: Andrea Check Number of Transcript Pages for this hearing estimated: Motion for Permission to Appeal/ 50	Michael McLaughlin
	MINE	TCHOCA	Court Takes Motion to Appeal Under Advisement	Michael McLaughlin
	AFFD	TCHOCA	Affidavit of Donna Hawkins	Michael McLaughlin
	HRSC	TCHOCA	Hearing Scheduled (Hearing Scheduled 02/24/2011 03:30 PM) Defendants MN DQ, Competancy and Misjoin	Michael McLaughlin
1/27/2011	RQDS	TCBELLHL	State/City Request for Discovery	Michael McLaughlin
	RSDS	TCBELLHL	State/City Response to Discovery	Michael McLaughlin
2/1/2011	PROS	PRSMITTJ	Prosecutor assigned Jan Bennetts	Michael McLaughlin
	DEOP	DCABBOSM	Memorandum Decision on the State's Motion for Permission to Appeal	Michael McLaughlin
2/3/2011	ORDR	DCABBOSM	Order Granting State's Motion for Permission to Appeal	Michael McLaughlin
2/7/2011	MOTN	TCBROXLV	Motion for Discovery and Motion Requiring State to Provide Full Discovery	Michael McLaughlin
2/8/2011	MOTN	TCBROXLV	Motion in Limine (Re-Trial)	Michael McLaughlin
	MOTN	TCBROXLV	Motion to Permit State to Rely on Previous Trial Rulings at Re-Trial	Michael McLaughlin
	MOTN	TCBROXLV	Motion to Permit State to use Previous Trial and Competency Hearing Exhibits at Re-Trial	Michael McLaughlin
	RSDS	TCBROXLV	State/City Response to Discovery/Addendum	Michael McLaughlin
	CONT	TCHOCA	Continued (Pretrial Conference 03/23/2011 11:00 AM)	Michael McLaughlin
2/9/2011	NOTC	CCTHIEBJ	Amended Notice Of Hearing	Michael McLaughlin
2/14/2011	MOTN	TCRAMISA	Motion for Competency Hearing Record Corrected	Michael McLaughlin
2/15/2011	MOTN	TCFARANM	Motion To Supress	Michael McLaughlin
	NOHG	TCFARANM	Notice Of Hearing for Motion Hearing on All Unheard Motions	Michael McLaughlin
	MISC	TCFARANM	Defendant's Motion to Deny and Objection As to the State's Motion to Rely On Previous Trial Raliys and Competency Hearing	Michael McLaughlin
	MOTN	TCFARANM	Motion To Deny and Objection to State's Motion for Limine	Michael McLaughlin

State of Idaho vs. Faron Raymond Hawkins

Date	Code	User		Judge
2/15/2011	MOTN	TCFARANM	Motion To Require State To Produce Full Discovery Under Rule 16	Michael McLaughlin
	CONT	TCHOCA	Hearing result for Hearing Scheduled held on 02/24/2011 03:30 PM: Continued Defendants MN DQ, Competancy and Misjoin	Michael McLaughlin
	HRSC	TCHOCA	Hearing Scheduled (Motion 04/01/2011 10:30 AM) Defendants MN DQ, Competancy and Misjoin, MN in Limine, MN Dism, MN Bond Reduction, MN to Stay	Michael McLaughlin
2/16/2011	MISC	TCRAMISA	State's Response to Defendant's Motion for Severance	Michael McLaughlin
	MISC	TCRAMISA	State's Response to Defendant's Motion to DQ Court	Michael McLaughlin
	NOTC	CCTHIEBJ	Notice Of Hearing	Michael McLaughlin
	MISC	CCTHIEBJ	State's Response To Defendant's Motion For Competency Hearing	Michael McLaughlin
2/24/2011	MISC	TCFARANM	State's Response To Defendant's "Motion To Require State To Produce Full Discovery Under Rule 16" Received February 15, 2011	Michael McLaughlin
	MISC	TCFARANM	State's Response To Defendant's Motion For Discovery Dated February 7, 2011	Michael McLaughlin
3/8/2011	MOTN	TCFARANM	Motion To Stay Proceedings	Michael McLaughlin
3/10/2011	CONT	TCHOCA	Continued (Pretrial Conference 04/01/2011 10:30 AM)	Michael McLaughlin
3/11/2011	NOHG	TCRAMISA	Notice Of Hearing	Michael McLaughlin
3/14/2011	MOTN	TCFARANM	Motion For Bond Hearing to Reduce Excessive Bond	Michael McLaughlin
	MDIS	TCFARANM	Motion To Dismiss Due to Being Denied Quick and Speedy Trial	Michael McLaughlin
3/17/2011	MOTN	TCFARANM	Motion To Produce Discovery For Examinatin and Order to Produce	Michael McLaughlin
	MISC	TCFARANM	Defenses Objection to State's Motion For Stay of Proceedings And Motion to Deny Stay	Michael McLaughlin
	MOTN	TCFARANM	Motion To Require State To Provide Discovery	Michael McLaughlin
	MISC	TCFARANM	Memorandum in Support of Defendant's Motion to Suppress	Michael McLaughlin
	NOTC	TCFARANM	Notice For Hearing To Dismiss And Excessive Bond And Order	Michael McLaughlin
3/29/2011	MISC	TCFARANM	State's Response to Defendant's Motion for Speedy Trial	Michael McLaughlin

State of Idaho vs. Faron Raymond Hawkins

Date	Code	User	Judge
4/1/2011	DCHH	TCHOCA	Hearing result for Motion held on 04/01/2011 10:30 AM: District Court Hearing Held Court Reporter: Kim Madsen Number of Transcript Pages for this hearing estimated: Defendants MN DQ, Competancy and Misjoin, MN in Limine, MN Dism, MN Bond Reduction, MN to Stay/ 75
	HRVC	TCHOCA	Hearing result for Pretrial Conference held on 04/01/2011 10:30 AM: Hearing Vacated
	HRVC	TCHOCA	Hearing result for Jury Trial held on 04/11/2011 08:30 PM: Hearing Vacated
4/6/2011	ORDR	TCHOCA	Order Denying Defendants motion to Disqualify Court
	ORDR	TCHOCA	Order Staying Proceedings
	ORDR	TCHOCA	Order Appointing SAPD on Appeal
	STAT	TCHOCA	STATUS CHANGED: inactive
5/17/2011	APSC	TCBROXLV	Appealed To The Supreme Court
8/17/2011	NOTC	CCTHIEBJ	(4) Notice Of Transcript Lodged - Supreme Court Docket No. 38532
7/3/2012	CHRT	CCMORRPH	Changed Assigned Judge: Retired (batch process)
4/23/2013	CHRE	TCMOLCMA	Change Assigned Judge: Reassignment
		TCMOLCMA	Notice of Reassignment
5/7/2013	MISC	CCTHIEBJ	Opinion - Supreme Court Docket No. 38532
5/10/2013	HRSC	TCLYCAAM	Hearing Scheduled (Hearing Scheduled 05/13/2013 04:00 PM)
5/13/2013	REMT	CCTHIEBJ	Remittitur-Remanded Supreme Court Docket No. 38532
	DCHH	TCLYCAAM	Hearing result for Hearing Scheduled scheduled on 05/13/2013 04:00 PM: District Court Hearing Held Court Reporter: P. Tardiff Number of Transcript Pages for this hearing estimated: Less than 100
	HRSC	TCLYCAAM	Hearing Scheduled (Hearing Scheduled 05/29/2013 04:30 PM)
5/29/2013	MOTN	TCCHRIKE	Motion for Court to take Judicial Notice of Prior Proceedings and Retroactive Cometency Findings
	NOAP	TCTONGES	Notice Of Appearance/ Fredericksen
	DCHH	TCJOHNKA	Hearing result for Hearing Scheduled scheduled on 05/29/2013 04:30 PM: District Court Hearing Held Court Reporter: Fran Morris Number of Transcript Pages for this hearing estimated: less than 50 pages

State of Idaho vs. Faron Raymond Hawkins

Date	Code	User	Judge
5/29/2013	HRSC	TCJOHNKA	Hearing Scheduled (Status 07/17/2013 04:00 PM) by phone - initiated by the Court
	HRSC	TCJOHNKA	Hearing Scheduled (Hearing Scheduled 08/29/2013 09:00 AM) all day if needed
6/5/2013	NOTH	TCWEATJB	Notice Of Hearing
6/6/2013	MOTN	TCCHRIKE	Motion to Declare Defendant a Needy Person
6/12/2013	RSDS	TCTONGES	State/City Response to Discovery/ second addendum
6/17/2013	HRHD	TCLYCAAM	Hearing result for Motion scheduled on 06/17/2013 04:30 PM: Hearing Held
	HRSC	TCLYCAAM	Hearing Scheduled (Status 07/03/2013 04:00 PM)
	ORDR	TCLYCAAM	Order Granting Motion to Declare Defendant a Needy Person
6/28/2013	MOWI	TCCHRIKE	Motion to Withdraw as Counsel of Record
	AFFD	TCCHRIKE	Affidavit of Eric D. Fredericksen
7/3/2013	DCHH	DCJOHNSI	Hearing result for Status scheduled on 07/03/2013 04:00 PM: District Court Hearing Held Court Reporter: gambee Number of Transcript Pages for this hearing estimated:50
	MOTN	DCJOHNSI	Motion to Be Transported and Housed at a Jail outside of Ada and Cyn. Counties
	MOTN	DCJOHNSI	Motion for Release to House Arrest for Medical and Security Reasons
	MOTN	DCJOHNSI	Motion to Dismiss
	MOTN	DCJOHNSI	Motion to Strike Competency Hearing and Rulings for Prosecutorial Misconduct and Fraud
	MOTN	DCJOHNSI	Motion to Take Judicial Notice of Prior Record and that this Court will be called as a witness in the upcoming hearing...
	MOTN	DCJOHNSI	Motion to Take Judicial Notice of Trial Transcripts, Motions, Proceedings...
	MOTN	DCJOHNSI	Motion to Dismiss for Abuse of Discretion by the Courts Failure to Provide Counsel
	MOTN	DCJOHNSI	Motion to Dismiss for Lack of Subject Matter Jurisdiction as Defense Alleges the Indictment is Invalid
	MOTN	DCJOHNSI	Motionfor Judicial Notice re: Failure to Grant Speedy Trial...
	MOTN	DCJOHNSI	Motion to Dismiss Indictment for Intentional Prosecutorial Misconduct, Fraud, Falsifying...
	MOTN	DCJOHNSI	Motion to Dismiss Indictment, Case for Prosecutorial Misconduct, Fraud, Falsifying...

State of Idaho vs. Faron Raymond Hawkins

Date	Code	User		Judge
7/3/2013	MOTN	DCJOHNSI	Motion to Dismiss Indictment, Case for Prosecutorial Misconduct, Fraud, Falsifying...	Michael McLaughlin
	MOTN	DCJOHNSI	Motion to Dismiss Indictment	Michael McLaughlin
	MISC	DCJOHNSI	Def. Memorandum of Law Supporting Motion to Dismiss Indictment and Case Overturn the Verdict	Michael McLaughlin
	MOTN	DCJOHNSI	Motion to Dismiss Indictment and Case for States Failure to Provide a Quick and Speedy Trial	Michael McLaughlin
	MOTN	DCJOHNSI	Motion to Dismiss Indictment for Violation of 6th Amendment Right to Counsel	Michael McLaughlin
	MOTN	DCJOHNSI	Motion to Dismiss Indictment, Case for Prosecutorial Minconduct, Fraud, Falsifying...	Michael McLaughlin
	MISC	DCJOHNSI	Def. Memorandum in Support of Motion to Dismiss	Michael McLaughlin
7/10/2013	MOTN	TCCHRIKE	Motion for Release to House Arresst with Ankle Moniter do to Counties Reckless Endangerment to Defendant's Health Failure to Provide Local Standard of Medical Care Medical Release to Obtain Guess to Medical Care	Michael McLaughlin
	REQT	TCCHRIKE	Defendant's Request for and Motion for Rule 16 Discovery Including All Brady Material	Michael McLaughlin
	MOTN	TCWEGEKE	Motion for a Motion Hearing to Hear all Unheard Motions	Michael McLaughlin
7/12/2013	MDIS	TCCHRIKE	Motion To Dismiss Complaint Filed July 3,2013	Michael McLaughlin
	RSPN	TCCHRIKE	State's Response to Pro Se Defendant Hawkins Motions Filed July 3, 2013	Michael McLaughlin
7/15/2013	NHPD	TCWEATJB	Notice & Order Appointing Public Defender	Michael McLaughlin
	ORPD	TCWEATJB	Defendant: Hawkins, Faron Raymond Order Appointing Public Defender Public defender Ada County Public Defender	Michael McLaughlin
7/16/2013	RQDS	TCROMENI	State/City Request for Discovery	Michael McLaughlin
7/17/2013	DCHH	TCLYCAAM	Hearing result for Status scheduled on 07/17/2013 04:00 PM: District Court Hearing Held Court Reporter: Fran Morris Number of Transcript Pages for this hearing estimated: Less than 100	Michael McLaughlin
7/18/2013	ORDR	TCLYCAAM	Order Granting Motion to Withdraw as Counsel of Record	Michael McLaughlin
7/19/2013	ORDR	TCWEATJB	Order Regarding Discovery	Michael McLaughlin
	HRSC	TCWEATJB	Hearing Scheduled (Status 07/31/2013 04:00 PM)	Michael McLaughlin
	MISC	TCCHRIKE	Supplement to the Record Regarding Discovery	Michael McLaughlin

State of Idaho vs. Faron Raymond Hawkins

Date	Code	User	Judge
7/30/2013	MOTN	TCLYCAAM	Motion to Strike November 12th 2010 Competency Hearing and Motion to Strike Retroactive Competency Ruling do to Abuse of Discretion by this Court, denied due process by Judge McLaughlin
	MOTN	TCLYCAAM	Motion For Court to Take Judicial Notice of CV-CP-06-17231 and Motion to Dismiss for Fraud by State Actions.
	MOTN	TCLYCAAM	Motion to Dimiss Indictment
	MOTN	TCLYCAAM	Motion for the Court to Take Judicial Notice of CR-FE-2007-00005
	MOTN	TCLYCAAM	Motion For the Court to Take Judicial Notice of the Following Case Files, Motions, Rulings, Idaho State Bar Findings and Transcripts.
	MOTN	TCLYCAAM	Motion to Strike Retroactive Competency Ruling
	MOTN	TCLYCAAM	Motion to Strike Competency Hearing for Ineffective Counsel
	MOTN	TCLYCAAM	Motion to Strike Competency Hearing do to Unfairly Prejudicial Conflict of Interest
	WAIV	TCLYCAAM	Waiver Of The Right to Attorney- Not Signed
	MOTN	TCLYCAAM	Motion to Dismiss do to the fact that the state can not produce a valid indictment
	MISC	TCLYCAAM	Procedure for Pro Litigants Reading PC- Filed by Faron Hawkins
	RESP	TCLYCAAM	Defendants Response to State's Motion for Court to Take Judicial Notice of Prior Proceedings and Retroactive Competency Findings and Motion for Rule 16 Discovery including all "Brady Material"
	MISC	TCWEGEKE	Defense Objection to Ruling to Stay all Defense Motions until after August 29th Hearing and Motion for Impartial Judge to Hear all Unheard Motions
	MOTN	TCWEGEKE	Motion to Disqualify Judge McLaughlin for Cause Under Rule 25 and Under Code of Judicial Conduct Canon
	NOTC	TCWEGEKE	Notice of Appeal Judge McLaughlin's Ruling to Stay all Unheard Motions until Maybe After Hearing
8/5/2013	MISC	CCWATSCL	To Supplement the Record and Motion to Reconsider Defendants Request for Dr. Robert Cloninger, MD for Evaluation and Ruling Denying that and all other Motions at hearing dated July 31st 2013 and Puts Court on Notice Defense Will Not Accept Another Psychiatrist
	MEMO	CCWATSCL	Defenses Memorandum of Law Why the State adn This Court Cannot Lawfully Find the Defendant Retroactively Competent

... State of Idaho vs. Faron Raymond Hawkins

Date	Code	User		Judge
8/7/2013	NOTH	TCLYCAAM	Notice Of Hearing	Michael McLaughlin
	DCHH	TCLYCAAM	Hearing result for Status scheduled on 07/31/2013 04:00 PM: District Court Hearing Held Court Reporter: T. Fisher Number of Transcript Pages for this hearing estimated: Less than 100	Michael McLaughlin
8/13/2013	MISC	CCTHIEBJ	Memorandum Decision and Order	Michael McLaughlin
8/27/2013	NOTA	TCCHRIKE	NOTICE OF APPEAL and Motion for Permission to Appeal	Michael McLaughlin
	MOTN	TCCHRIKE	Motion for Court Ordered Discovery and Motion in Limine to Deny any Evidence or Witness Testimony Not Disclosed by the Discovery	Michael McLaughlin
	MOTN	TCCHRIKE	Motion for Sanctions Against Ada County Sheriff Gary Raney for Denying Subpoena Service	Michael McLaughlin
	MOTN	TCCHRIKE	Motion for Removal from Ada County Jail Due to Reckless Endangerment	Michael McLaughlin
	RSPN	TCCHRIKE	Defendant's Response, Objection to Courts August 13th 2013 Order, Desion , Meemorandum and Correct the Record	Michael McLaughlin
	APSC	TCCHRIKE	Appealed To The Supreme Court	Michael McLaughlin
8/28/2013	HRVC	TCLYCAAM	Hearing result for Hearing Scheduled scheduled on 08/29/2013 09:00 AM: Hearing Vacated all day if needed	Michael McLaughlin
9/16/2013	MOTN	CCTHIEBJ	Amended Motion for Permission to Appeal	Michael McLaughlin
	NOTA	CCTHIEBJ	Amended Notice of Appeal	Michael McLaughlin
10/7/2013	HRSC	TCLYCAAM	Hearing Scheduled (Status 10/17/2013 09:00 AM)	Michael McLaughlin
10/17/2013	ORDR	DCABBOSM	Order	Michael McLaughlin
	DCHH	TCEDWAAM	Hearing result for Status scheduled on 10/17/2013 09:00 AM: District Court Hearing Held Court Reporter: D. Cromwell Number of Transcript Pages for this hearing estimated: Less than 100	Michael McLaughlin
	ORDR	TCWEGEKE	Custody Order	Michael McLaughlin
10/21/2013	MDIS	TCCHRIKE	Motion To Dismiss Under I.C. 19-3501 I.C.R. 48(2)	Michael McLaughlin
	NOTC	TCCHRIKE	Notice of Defense Psychiatrist Motion for Payment to Psychiatrist	Michael McLaughlin
	CESR	TCCHRIKE	Certificate of Service	Michael McLaughlin

State of Idaho vs. Faron Raymond Hawkins

Date	Code	User		Judge
10/22/2013	MOTN	TCOLSOMC	Motion for New Trial and Motion to Vacate Sentence and Motion to Strike Oct 17th 2013 Hearing Defenses Objection to Said Hearing, Judicial Misconduct.	Michael McLaughlin
	MEMO	TCOLSOMC	Defendant's Memorandum of Fact In Support of Defendant's Objection and Motion to Vacate Conviction and Sentence on Oct. 17, 2013	Michael McLaughlin
10/24/2013	JDMT	DCABBOSM	Amended Judgment of Conviction	Michael McLaughlin
11/5/2013	NOTA	TCCHRIKE	NOTICE OF APPEAL and Motion to Appoint Public Defender	Michael McLaughlin
	APSC	TCCHRIKE	Appealed To The Supreme Court	Michael McLaughlin
11/8/2013	MOTN	TCEDWAAM	Motion for New Trial and Motion to Vacate Sentence and Motion to Strike Oct 17th 2013 Hearing Defenses Objection to Said Hearing, Judicial Misconduct. DENIED	Michael McLaughlin
11/15/2013	NOTA	TCCHRIKE	NOTICE OF APPEAL	Michael McLaughlin
	APSC	TCCHRIKE	Appealed To The Supreme Court	Michael McLaughlin
11/20/2013	NOTA	TCCHRIKE	NOTICE OF APPEAL	Michael McLaughlin
	APSC	TCCHRIKE	Appealed To The Supreme Court	Michael McLaughlin
11/26/2013	ORPD	TCEDWAAM	Order Appointing State Appellate Public Defender on Direct Appeal	Michael McLaughlin
	ORPD	TCEDWAAM	Defendant: Hawkins, Faron Raymond Order Appointing Public Defender Court appointed August H Cahill	Michael McLaughlin
12/4/2013	MOTN	TCCHRIKE	Motion for Reduction of Sentence I.C.R.35	Michael McLaughlin
12/13/2013	REMT	CCTHIEBJ	Remittitur-Dismissed Supreme Court Docket No. 41347	Michael McLaughlin
	ORDR	CCTHIEBJ	Order Denying Motion for Reduction of Sentence I.C.R. 35	Michael McLaughlin
12/16/2013	MISC	TCWRIGSA	State's Opposition to Defendants Motion for Reduction of Sentence	Michael McLaughlin
1/22/2014	NOTC	TCWEGEKE	(4) Notice of Transcript Lodged - Supreme Court No. 41621	Michael McLaughlin

FILED
Tuesday, April 23, 2013 at 09:19 AM
CHRISTOPHER D. RICH, CLERK OF THE COURT
BY: M. Moelhan
Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO ,
Plaintiff,

vs.

FARON RAYMOND HAWKINS,
Defendant.

Case No. CR-FE-2007-0000005

NOTICE OF REASSIGNMENT

NOTICE IS HEREBY GIVEN That the above-entitled case has been reassigned to the
Honorable MICHAEL MCLAUGHLIN.

DATED Tuesday, April 23, 2013.

CHRISTOPHER D. RICH
Clerk of the District Court

By: M. Moelhan
Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that on Tuesday, April 23, 2013, I have delivered a true and accurate
copy of the foregoing document to the following parties in the method indicated below:

ADA COUNTY PROSECUTOR
INTERDEPARTMENTAL MAIL

EDWARD B ODESSEY
INTERDEPARTMENTAL MAIL

CHRISTOPHER D. RICH
Clerk of the Court

By: M. Moelhan
Deputy Clerk

ANY PREVIOUSLY SCHEDULED HEARINGS AND OR TRIALS ARE HEREBY VACATED.

Time	Sp	Note
04:01:10 PM		CR-FE-2007-00005 State vs. Hawkins
04:01:25 PM		Jan Bennetts for the State, Mr. Hawkins present in-custody
04:01:41 PM	Judge	Conduct a hearing on whether or not at the time of trial MR. Hawkins was competent to proceed. If he was competent his sentence would be imposed, if not a new trial would be held.
04:02:28 PM		I appointed a PD and he was allowed to withdraw.
04:02:40 PM	Mr. Odyssey	Mr. Hawkins indicates he wants to proceed pro-se
04:02:56 PM	Mr. Hawkins	I was under the understanding you would let me be pro-se, I requested an attorney for the supreme court.
04:03:17 PM	Judge	You have the right to have an attorney. Do you wish to have an attorney represent you?
04:03:35 PM	Mr. Hawkins	Not today. I received nothing from the state or court. I would like to talk to some counsel to see if I can retain counsel.
04:04:00 PM	Judge	I will give you that opportunity. SO I am clear you would like an attorney to represent you?
04:04:19 PM	Mr. Hawkins	Yes
04:04:26 PM	Judge	Do you understand the court can appoint an attorney?
04:04:36 PM	Mr. Hawkins	Yes.
04:04:40 PM	Judge	Do you wish to have a PD?
04:04:53 PM	Mr. Hawkins	No I want private counsel.
04:05:23 PM	Judge	We will set a hearing for May 29th at 4:30 to see if you have gotten counsel. Then we will set this matter for a hearing sometime in July.

<u>04:06:25 PM</u>	Ms. Be nne tt's	We may be filing a briefing in light of the fact that the court already made that determination. I would like to review the transcripts. I believe we had such a hearing before and we believe the court has made that finding.
<u>04:07:03 PM</u>	Judge	The hearing that we had back in November of 2010 was a hearing regarding Mr. Hawkins competency at that time. What came out of that is that he was competent at that time and at the time of trial. I am reading the supreme courts decision. I based my decision on the record before the court at that time. Mr. Hawkins was not pleased with Mr. Sutton at the time. I will let you brief it. On the 29th of May we will see if you have counsel and get this thing set for a hearing.
<u>04:08:49 PM</u>	Mr. Hawkins	Could I get discovery to speed things along in case I can't obtain counsel?
<u>04:09:11 PM</u>	Mr. Odyssey	I provided him a copy of that letter today.
<u>04:09:35 PM</u>	Judge	Read tha Mr. Hawkins. Follow the rules of criminal procedure. Both sides will be disclosing their expert opinions.
<u>04:10:11 PM</u>		End of Case
<u>04:10:11 PM</u>		
<u>04:10:11 PM</u>		
<u>04:10:11 PM</u>		
<u>04:10:11 PM</u>		

189
HS
5/29
4:30

NO. 10 FILED
A.M. 10 P.M.

MAY 29 2013

CHRISTOPHER D. RICH, Clerk
By ELAINE TONG
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Roger Bourne
Jan M. Bennetts
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
Facsimile: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
FARON RAYMOND HAWKINS,)
)
Defendant.)
_____)

Case No. CR-FE-2007-0000005

**MOTION FOR COURT TO
TAKE JUDICIAL NOTICE OF
PRIOR PROCEEDINGS AND
RETROACTIVE COMPETENCY
FINDINGS**

COMES NOW, Roger Bourne and Jan M. Bennetts, Deputy Prosecuting Attorneys, in and for the County of Ada, State of Idaho, and move this Court to take judicial notice of prior proceedings and finding regarding the retroactive competency of the Defendant.

I. BACKGROUND

After this case was remanded to this Court from the Idaho Court of Appeals, the State filed a Motion for Hearing on Retroactive Psychological Evaluation on November 8, 2010. The

State hereby incorporates by reference the State's Motion for Hearing on Retroactive Psychological Evaluation filed on November 8, 2010. Contained within the State's Motion is the legal basis for this Court to make a retroactive competency determination.

On November 10, 2010, John Sutton substituted into this case to represent the Defendant. On November 12, 2010, this Court held a hearing to determine the Defendant's competency. (See Transcript of November 12, 2010 Hearing Attached, Exhibit #1.) After the hearing, this Court held that the Defendant was competent to proceed to trial; that he was able to assist in his own defense; and that he was capable of understanding the nature of the proceedings. (See Order Regarding Defendant's Competency to Stand Trial, Dec. 6, 2010.)

In addition, this Court made findings related to the Defendant's retroactive competency as follows:

This Court further makes the retroactive finding that the Defendant was competent to proceed to trial in January 2008. The Court finds that the opinion of Dr. Estess that the Defendant was competent to proceed to trial in January has been established by clear and convincing evidence. The retroactive competency conclusion by Dr. Estess that the Defendant understood the nature of proceedings against him and was able to assist in his own defense at the time he went to trial in this case in January 2008 is based upon the totality of the record Dr. Estess reviewed. Dr. Estess based his opinion upon an extensive number of items and information that he articulated during his testimony, many of which are also contained in his report, State's Competency Hearing Exhibit #5.

(*Id.* at 2-3.)

II. ARGUMENT

This Court heard the testimony of Dr. Sombke and Dr. Estess at the Competency Hearing on November 12, 2010. Because this Court heard their testimony during the course of that hearing and because the State has provided the transcript as an exhibit attached to this Motion, the State will not repeat all of the details of their testimony here. (See State's Exh. #1 Attached.)

Both Dr. Sombke and Dr. Estess are credible mental health professionals. Dr. Estess has an extensive and lengthy background as a mental health professional. In particular, Dr. Estess has an extensive background in dealing with inmates at both the Idaho Department of Correction and the Ada County Jail.

The State requests that this Court take judicial notice of all of the prior proceedings and findings in this case from the date the complaint was filed on June 27, 2006. Idaho Rule of Evidence 201(d) provides that: “[w]hen a party makes an oral or written request that a court take judicial notice of records, exhibits or transcripts from the court file in the same or separate case, the party shall identify the specific documents or items for which the judicial notice is requested or shall proffer to the court and serve on all parties copies of such documents or items. A Court shall take judicial notice if requested by a party and supplied with the necessary information.”

In addition to the items outlined below, the State requests that this Court specifically take judicial notice of its prior competency and retroactive competency findings:

1. All of the pretrial motions and/or filings by both parties, hearings and proceeding leading up to the January 2008 jury trial, which includes hearings on the following dates August 29, 2006, September 12, 2006, September 27, 2006, October 19, 2006, November 17, 2006, November 30, 2006, Grand Jury proceedings and transcript on January 2, 2007, January 12, 2007, February 9, 2007, February 16, 2007, March 23, 2007, April 13, 2007, April 27, 2007, June 1, 2007, June 28, 2007, August 24, 2007, September 17, 2007, September 21, 2007, October 5, 2007, November 2, 2007, December 7, 2007, and December 21, 2007; and,
2. The jury trial transcript and all exhibits from the trial held beginning on January 7 through 11, 2008; and;

3. The post-trial motions and/or filings by both parties, hearings and proceedings held after the January 2008 jury trial on the following dates: January 31, 2008, February 12, 2008, March 13, 2008, and April 23, 2008; and,
4. All of the proceedings held after this case was remanded to this Court from the Idaho Court of Appeals in 2010 on the following dates: May, 19, 2010, June 16, 2010, August 18, 2010, and October 20, 2010; and,
5. The November 12, 2010 Competency Hearing and including all exhibits admitted during the course of the November 12, 2010 Competency Hearing; and,
6. This Court's Order Regarding Defendant's Competence to Stand Trial filed on December 6, 2010; and,
7. The proceedings that occurred on the following dates: November 29, 2010, December 8, 2010, December 15, 2010, January 26, 2011, and April 1, 2011; and,
8. The State is specifically requesting that this Court take judicial notice of all of the motions and/or filings by both parties during the course of this case from the filing of the complaint on June 27, 2006 through the present time and including the conclusion of this case.

Based upon all of the testimony this Court heard from both Dr. Sombke and Dr. Estess, along with the exhibits admitted at the Competency Hearing and the underlying court record in this case, the State is requesting this Court adopt its finding from its December 6, 2010 Order that the Defendant was retroactively competent to stand trial in January 2008.

Should this Court determine that it will grant the Defendant a retroactive competency hearing, the State nonetheless requests this Court hold its December 6, 2010 finding, by clear and convincing evidence that the Defendant was retroactively competent to stand trial in January

2008, is sufficient to shift the burden to the Defendant to refute that finding at any such hearing. The State would then be free to present additional evidence in rebuttal if necessary. In other words, the State requests that should the Court grant the Defendant a hearing, it grants a continuation of the competency hearing already held in this case rather than a hearing in the first instance. The State makes this request because it has already presented evidence on the retroactive competency question.

Based upon all of the evidence presented, the State urges this Court to adopt its prior retroactive competency finding or, in the alternative, require the Defendant to refute this Court's prior retroactive competency finding at which time the State could then present rebuttal evidence.

A. Dr. Sombke

Although Dr. Sombke had initially concluded in his initial report that the Defendant could not assist in his defense, he did so based upon what he characterized as "faulty" information. (Transcript, Nov. 12, 2010 Hearing at 38-39.) He testified that his opinion about the Defendant's ability to assist in his defense had changed since he prepared his initial report and that his initial report was based upon faulty information. After having the opportunity to review additional information he did not have at the time he prepared his initial report, he believed the Defendant was competent to stand trial in 2010. (*Id.* at 29-40.) Further, as Dr. Sombke indicated during his testimony, he had concluded, even in his initial evaluation, that the Defendant had always had the capacity to understand the proceedings against him. (*Id.* at 29.) Dr. Sombke's conclusion that the Defendant understood the nature of the proceedings did not change.

Dr. Sombke testified that the Defendant was not delusional and not psychotic; he was competent; understood the proceedings against him; and could assist in his defense if he chose to do so. He testified that the Defendant had the capacity to choose to assist in his defense.

B. Dr. Estess

Dr. Estess also testified at the Competency Hearing on November 12, 2010. This Court ordered Dr. Estess to complete an I.C. § 18-211 competency evaluation of the Defendant. Dr. Estess requested Dr. Sombke's assistance in completing this evaluation.

It is worth noting at the outset that Dr. Estess was in a unique position to render an opinion in this case because he had had contact with the Defendant while the Defendant was housed in the Ada County Jail pending trial between 2006 and January, 2008 when this case was tried. Dr. Estess saw and spoke with the Defendant on a number of occasions during that period of time the Defendant was housed in the jail. (*See* Nov. 12, 2010 Hearing, Exhibit # 5 at 1.) Dr. Estess reviewed records and had also spoken with the security, medical and mental health staff at the jail where the Defendant resided while the Defendant was pending trial between 2006 and 2008.

At the time of the November 12, 2010 Competency Hearing, the Defendant was housed at the Ada County Jail awaiting the outcome of those proceedings. Dr. Estess also saw the Defendant on several occasions in the Ada County Jail since the Defendant had been placed there pending the outcome of the post-Idaho Court of Appeals proceedings. (*Id.*) Although, as discussed below, the Defendant obstructed Dr. Estess' efforts to interview him as part of the 18-211 evaluation process, Dr. Estess had spoken again with jail security, medical and mental health staff regarding their observations and interactions with the Defendant during his jail stay as part of Dr. Estess' preparation for rendering his opinion at the November 12, 2010 Competency Hearing. (*Id.*)

Dr. Estess also did a number of things in preparation for rendering his opinion and offering his testimony at that November 12th Competency Hearing, the following items, which are

documented in State's Exhibit #5 admitted at the November 12, 2010 Hearing (unless otherwise noted in parenthesis after the item listed below):

1. Reviewed Dr. Sombke's initial psychological report¹;
2. Spoken with Dr. Sombke;
3. Reviewed the PSI;
4. Reviewed a polygraph report from November 13, 2006;
5. Reviewed the Idaho Court of Appeals opinion in this case;
6. Reviewed Ada County Jail records, spoken with security, medical and mental health staff at the Ada County Jail where the Defendant resided pending the January 2008 trial in this case between 2006 and 2007;
7. Seen and spoken with the Defendant while he was initially housed at the jail awaiting the January 2008 trial in this case;
8. Spoken again with security, medical and mental health staff during the Defendant's stay at the Ada County Jail preceding the November 12, 2010 hearing regarding their observations and interactions with the Defendant during his stay;
9. Spoken with the Defendant's defense lawyer, Dennis Benjamin;
10. Spoken with Prosecutors, Roger Bourne and Jan Bennetts;
11. Spoken with the Defendant's biological mother regarding developmental circumstances and history;
12. Spoken with the Defendant's ex-common law wife, Darcy, who the Defendant had known for 16 years and with whom he had 3 children in common;

¹ State's Nov. 12, 2010 Exhibit #6 on page 6.

13. Spoken with prison personnel: chief social worker and the prison psychiatrist (Transcript, Nov. 12, 2010 Hearing at 70-71);
14. Reviewed two letters the Defendant wrote to his parents during these proceedings² (Transcript, Nov. 12, 2010 Hearing at 71-73 and 88-89);
15. Reviewed an Ada County Jail grievance the Defendant wrote from June 16, 2010³ (Transcript, Nov. 12, 2010 Hearing at 73-74 & 89-91);
16. Although Dr. Estess had seen the Defendant in the jail since he was returned to the jail after the Idaho Court of Appeals' decision, the Defendant would not speak with Dr. Estess, even after his attorney requested that he speak with Dr. Estess;
17. Reviewed the Idaho Department of Correction medical records where the Defendant was housed after this Court sentenced him in April 2008 (Transcript, Nov. 12, 2010 Hearing at 71 & 74);
18. Reviewed a Dr. Johnston's March, 2008 psychological report of the Defendant that was provided to Dr. Sombke by the Defendant's new attorney, John Sutton⁴ (Transcript, Nov. 12, 2010 Hearing at 74-75);
19. Reviewed a Dr. DeLawyer's October, 2006 psychological report of Darcy that was provided to Dr. Sombke by the Defendant's new attorney, John Sutton⁵ (Transcript, Nov. 12, 2010 Hearing at 74-75);
- /

² State's Nov. 12, 2010 Exhibit #1. Although these letters the Defendant wrote to his parents are undated, the content of the letters indicate that they were written after this Court ordered an 18-211 evaluation on or about May 25, 2010, and during this evaluation process. The Defendant makes multiple references to Dr. Estess speaking with the Defendant's mother, which occurred during this evaluation process.

³ State's Nov. 12, 2010 Exhibit #2 on page 7

⁴ State's Nov. 12, 2010 Exhibit #3

⁵ State's Nov. 12, 2010 Exhibit #4

20. Reviewed some of the investigative police reports from the underlying case in Boise and Oregon (Transcript Nov. 12, 2010 Hearing at 74); and,

21. Reviewed relevant portions of the trial transcripts from the underlying case, including but not limited to pretrial motions and the trial. (Transcript Nov. 12, 2010 Hearing at 74 & 95 & 97-99).

Dr. Estess obtained detailed background information about the Defendant based upon conversations with the Defendant's mother and Darcy. (*See* Transcript Nov. 12, 2010 Hearing at 75-87.)

In the I.C. § 18-211 letter Dr. Estess wrote to this Court dated October 15, 2010 (State's Nov. 12, 2010 Hearing, Exhibit #5), on page 2 in the second full paragraph, Dr. Estess states as follows: It is my perspective "Mr. Hawkins has been rather successful at presenting himself as though he has symptoms of psychotic illness. It is my perspective that this is a function of significant embellishment of his personality problems as well as overt fabrication and storytelling in order to have himself viewed as mentally ill."

The testimony Dr. Estess provided to this Court on November 12, 2010, is consistent with what Dr. Estess wrote to this Court in his October 15, 2010 letter. Dr. Estess concluded that, in his opinion, the Defendant was competent to stand trial back in 2008. (Transcript, Nov. 12, 2010 Hearing at 99-100.) He testified that he did not believe, nor did his jail mental health staff believe, that the Defendant was mentally ill when the Defendant was housed in the jail awaiting trial between 2006 and his trial in 2008. (*Id.* at 64-67.) Dr. Estess testified that while the Defendant was awaiting trial, Dr. Estess held the opinion that the Defendant was very arrogant, narcissistic, paranoid, inadequate, dependent, dishonest, antisocial, angry, petulant, manipulative,

deceitful, and coy. (*Id.* at 65.) He further testified that the Defendant “has an exaggerated notion about his ability to manipulate and maneuver.” (*Id.* at 66.) Dr. Estess explained that it was his belief that the Defendant “got depressed.” (*Id.* at 67.)

As further evidence of the Defendant’s competence, Dr. Estess reviewed letters that the Defendant wrote to his parents. He indicated that they were logical, goal-directed and organized. (*Id.* at 88.)

Dr. Estess stated the following opinion about the Defendant’s competence at the time he was tried in January 2008:

I think he was perfectly competent to understand the nature of the proceedings, to confer with an attorney in his own defense and understand what was going on. And, basically, I thought he was competent to stand trial.

(Transcript Nov. 12, 2010 Hearing at 100.)

C. Defendant’s Lack of Cooperation

Further, the Defendant has been less than cooperative with any psychological evaluation process during the course of this case. Dr. Estess testified at the November 12, 2010 hearing that the Defendant did not want to speak to him unless he spoke with his attorney and then the Defendant stated he did not want to speak to Dr. Estess and he would not talk to his attorney. (*Id.* at 68-69.) Dr. Sombke testified that he had initially tried to interview the Defendant pursuant to this Court’s I.C. § 19-2522 order in 2008 and the Defendant refused to submit to Dr. Sombke’s evaluation. (*Id.* at 13.) This fact is corroborated by the transcripts of the underlying proceedings

during which this Court put on the record on January 31, 2008, that the Defendant refused to submit to an interview with the psychologist. (Transcript of prior proceeding at 1120-1125.)⁶

During the evaluation process in 2010, Dr. Sombke was able to administer two tests to the Defendant, but Dr. Sombke testified that the Defendant did not agree to further testing. The Defendant had also refused to complete testing for Dr. Johnston in 2008. (*See* Nov. 12, 2010 Exhibit #3 at 2 & 8.) Dr. Johnston documented that the Defendant refused to complete five testing measures as listed in Dr. Johnston's report at page 2. (*Id.* at 2.) The Defendant indicated to Dr. Johnston that the reason he refused to take those tests was because of his fear that they would imply a level of mental impairment that would prevent him from representing himself in court. (*Id.*) Dr. Johnston noted his impression that the Defendant's resistance was also associated with paranoia and an attempt to control the circumstances. (*Id.*)

III. CONCLUSION

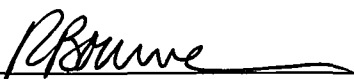
Should this Court grant the Defendant a retroactive competency hearing, the State requests this Court hold its December 6, 2010 finding, by clear and convincing evidence that the Defendant was retroactively competent to stand trial in January 2008, is sufficient to shift the burden to the Defendant to refute that finding at any such hearing. The State would then be free to present additional evidence in rebuttal if necessary.

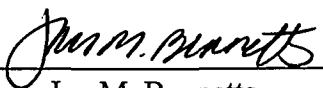
⁶ This Court referenced this refusal later on March 13, 2008, stating: "After receiving notice that the psychiatrist had gone to visit Mr. Hawkins in the jail and he had declined to undergo the psychiatric evaluation, we set the matter back on January 31st. And the defendant, at that time, continued to assert his constitutional rights, particularly his Fifth Amendment rights. And so, the psychological evaluation was withdrawn." (Transcript at 1137).

Based upon all of the evidence presented, the State urges this Court to adopt it prior retroactive competency finding or, in the alternative, require the Defendant to refute this Court's prior retroactive competency finding at which time the State could then present rebuttal evidence.

DATED this 28th day of May 2013.

GREG H. BOWER
Ada County Prosecuting Attorney


By: Roger Bourne
Deputy Prosecuting Attorney

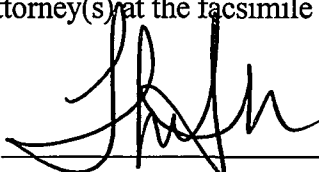

By: Jan M. Bennetts
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28 day of May 2013, I caused to be served, a true and correct copy of the foregoing Motion for Court to Take Judicial Notice of Prior Proceedings and Findings on Competency upon the individual(s) named below in the manner noted:

Name and address: Edward Odessey, Ada County Public Defender, 200 W. Front Street, Rm. 1107, Boise, Idaho 83702 and Faron Hawkins, Pro Se, c/o Ada County Jail.

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☒ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____



DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

IN AND FOR THE COUNTY OF ADA

----- x Case No. FE-07-00005
STATE OF IDAHO, :
 :
Plaintiff, :
 :
vs. :
 :
FARRON HAWKINS, :
 :
Defendant. :
----- x

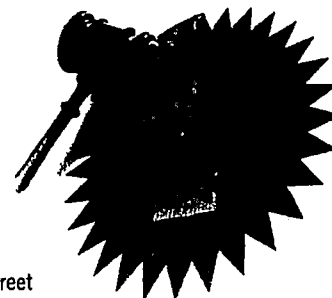
REPORTER'S TRANSCRIPT OF PROCEEDINGS

Held on November 12, 2010, before
Honorable Michael McLaughlin, District Court Judge.

Reported by
Tiffany Z. Fisher
CSR No. SRT-940

P.O. Box 1625
605 West Fort Street
Boise, ID 83701

Voice 208 345 3704
Fax 208 345 3713
Toll free 800 424 2354
Web www.etucker.net
E-mail info@manager.net



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Page 1

DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

IN AND FOR THE COUNTY OF ADA

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Plaintiff, :

vs. :

FARRON HAWKINS, :

Defendant. :

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Held on November 12, 2010, before
Honorable Michael McLaughlin, District Court Judge.

Reported by
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CSR No. SRT-940

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PROCEEDINGS

THE COURT: Good morning. Let's go ahead and bring in the defendant, please, Counsel.

MR. MOORE: Judge, good morning.

THE COURT: Good morning. All right. Again, good morning, Mr. Sutton. Ms. Bennetts is here, and Mr. Moore is present, and Mr. Hawkins is now present.

This is the case of State of Idaho, plaintiff, versus Farron Raymond Hawkins, defendant. This is the time and date set for the 18-211 hearing. Let me take care of a couple of preliminary matters.

I guess, first of all, is the State ready to proceed?

MS. BENNETTS: We are, Your Honor. We may need additional -- about ten minutes for Dr. Estess to review about two more reports we got this morning.

THE COURT: And is the defense ready to proceed?

MR. SUTTON: We would ask the same courtesy. My client has just given me something he wants me to read. So if the Court would just indulge for

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us maybe 15 minutes.

THE COURT: We will. We've got time. Let me go through a couple of matters first.

This case was remanded back to this court, and I wanted to address this issue of a retroactive motion for hearing on a retroactive psychology evaluation. I've had an opportunity to read and review that. I spent a good part of the week researching that issue.

And, in this case, it's a unique case. The Court of appeals, after having this matter appealed, determined that, quote, because it's not possible to retroactively make a determination as to Hawkins' competency at the time he was tried, we must vacate the judgment of conviction, and leave the State free to retry Hawkins, if he's found to be competent to stand trial.

And my understanding is that decision was -- that there was a request to have the Supreme Court review that decision, and they declined. I certainly -- there's clearly precedent for a retroactive psychological evaluation as pointed out in the briefing by the State.

This court is bound by the doctrine of

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the law of the case, which is set forth upon the appeals. The Supreme Court is deciding a case presented states that in its opinion a principal or a rule of law necessary to the decision, such pronouncement becomes the law of the case and must be adhered to throughout its subsequent progress, both in the trial court and upon subsequent appeals.

And I'll cite to you Stuart, S-T-U-A-R-T, versus State, 134 Idaho 512. Furthermore, the general rule is that on remand, a trial court has authority to take action it is specifically directed to take, or those which are subsidiary to the actions directed by the appellate court, cite State v. Hosey, H-O-S-E-Y, 134 Idaho 883.

And so the motion is noted for the record. And the Court will decline to grant the retroactive psychological evaluation, based upon, I think the very clear, directive from the Court of Appeals. And, certainly, if the State wishes to submit a proposed order with a -- for the Court to sign in that regard, it's certainly an issue you may want to take up if this goes back again.

MR. MOORE: Judge, can we just ask you one

1 (Pages 1 to 4)

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Page 6

1 question?

2 **THE COURT:** Yes, you may.

3 **MR. MOORE:** Well, we have prepared today
4 with Dr. Estess and Dr. Sombke to give the Court
5 kind of the -- not only the answers to its
6 question, which is today's question of the
7 competency of the defendant, but also to give the
8 Court the retroactive view, the historical view,
9 of this as well.

10 And I think that Dr. Estess is going to
11 testify, if the Court will permit it, as part of
12 his testimony on today's question of competency
13 that in Dr. Estess's working with the defendant
14 and view of the defendant and knowledge of the
15 defendant, he would say that the defendant has
16 never been incompetent and he never -- is not now.
17 And there's no evidence to suggest that he ever
18 had a mental illness that would interfere with his
19 competency.

20 If the Court would allow us to put that
21 before the Court --

22 **THE COURT:** That's perfectly permissible
23 during this hearing. I'm simply saying I'm not
24 going to go back and make a determination that, at
25 the time of the trial, he was competent, therefore

1 no new trial, therefore no new proceedings,
2 obviously. That was the import of my research.

3 **MR. MOORE:** I understand that.

4 **THE COURT:** But you may present -- that
5 clearly goes to the -- that's part of the opinion
6 that goes to the weight, and certainly the Court
7 can consider that.

8 **MR. MOORE:** The reason we think that's
9 significant is because we may ask the Court of
10 Appeals, if the Court finds today that he's
11 competent -- and part of that, if the Court finds
12 that he -- as we all perfectly well understand,
13 he's been competent the whole time. And there is
14 no reason, and never has been a reason, to find
15 that he was not competent.

16 If the Court makes that finding, or as
17 part of its specific finding, if it makes that
18 general finding, we may ask the Court of Appeals
19 to reconsider that question. Because it appears
20 to us that the -- that even though it's binding on
21 this court, because it's the law of the case, it's
22 just dicta, and that issue has never been before
23 the Court. The best we can tell, it was never
24 argued. And the Court just says that kind of in
25 its last paragraph and leaves everybody with their

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1 mouths hanging open.

2 And we think, as we've pointed out to
3 the Court in the briefing that we've done, that
4 there was no good legal reason for them to have
5 come to that conclusion. And we may ask them to
6 revisit that. But that's -- and I'll just tell
7 the Court that that's the direction we're going.

8 We understand, of course, that we have
9 to convince the Court, first, that the defendant
10 is competent now.

11 **THE COURT:** And that's the Court's
12 intention. At this point, we'll make a
13 determination after hearing the evidence today and
14 then move forward accordingly.

15 **MR. MOORE:** Thank you.

16 **THE COURT:** So with that, did the State have
17 any other preliminary matters before we take a
18 short recess, so the doctors and defense counsel
19 can review some new documents?

20 **MS. BENNETTS:** No, Your Honor.

21 **THE COURT:** Did you have anything else?

22 Mr. Sutton, do you have any other
23 preliminary matters?

24 **MR. SUTTON:** I do not. No, Your Honor.

25 **THE COURT:** The Court reviews this as the

1 burden of proof rests with the State, so the State
2 will go first when we proceed.

3 **MS. BENNETTS:** Thank you, Your Honor.

4 (Off the record.)

5 (Recess taken from 9:11 a.m. to 9:30
6 a.m.)

7 **THE COURT:** Be seated. The State's up for
8 CR-FE-2007-05. Counsel and defendant are present.

9 With that, did the State wish to make
10 opening remarks before you called your doctor or
11 your witness?

12 **MS. BENNETTS:** No, Your Honor. I guess I
13 would ask the Court we're going to be admitting
14 some documents, but I think Counsel may agree to
15 the admission of some of those. I think our
16 initial admissions would be Dr. Estess's report
17 and Dr. Sombke's report.

18 **THE COURT:** Any objection to those?

19 **MR. SUTTON:** No objections, Your Honor.

20 **THE COURT:** Those will be admitted.

21 **MS. BENNETTS:** And then I think, as we go
22 through, I can submit other documents, Your Honor.
23 But I'm ready to call Dr. Sombke.

24 **THE COURT:** Dr. Sombke, if you could come
25 forward, and the gentlemen in the blue coat will

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1 give you instructions, sir.
 2 **THE CLERK:** Do you solemnly swear or affirm
 3 that the testimony you will give in this cause now
 4 before the Court will be the truth, the whole
 5 truth, and nothing but the truth, so help you God?
 6 **THE WITNESS:** I do.
 7 **THE BAILIFF:** Please have a seat at the
 8 witness stand.
 9 **THE COURT:** You may proceed.
 10 **MS. BENNETTS:** Thank you, Your Honor.
 11
 12 EXAMINATION
 13 **BY MS. BENNETTS:**
 14 **Q.** Sir, would you please state your name
 15 and spell your last name.
 16 **A.** Chad Sombke, S-O-M-B-K-E.
 17 **Q.** And, sir, what is your occupation?
 18 **A.** I'm a psychologist.
 19 **Q.** And how long have you been a
 20 psychologist?
 21 **A.** Since 2003.
 22 **Q.** Would you please describe for the Court
 23 your educational background.
 24 **A.** I have a Bachelor's Degree in
 25 Psychology. I got that in 1989, a Master's Degree

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1 I do competency evaluations, risk assessments. I
 2 do psycho-sexual evaluations. I'm a certified
 3 psycho-sexual evaluator with the state. I'm a
 4 designated examiner. I've been doing that since
 5 2000.
 6 And I also do preemployment evaluations
 7 for the Ada County Sheriff's Department or the
 8 police department, the Garden City Police
 9 Department and the Ontario Police Department, and
 10 also the D.E. for the evaluations for those
 11 agencies.
 12 **Q.** Okay. And just to back up a little
 13 bit, what is the forensic evaluation? When you
 14 say that you do a lot of forensic work, what does
 15 that mean?
 16 **A.** Court related work. It's mostly all --
 17 like I said, I rarely see individual clients. I
 18 do -- like I said, almost all of my work are
 19 evaluations that are related to court.
 20 **Q.** Okay. And a number, I think you
 21 mentioned, are competency evaluations --
 22 **A.** Yes.
 23 **Q.** -- to determine fitness for trial?
 24 **A.** Yes.
 25 **Q.** Okay. And you also mentioned "D.E.,"

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1 in Psychology in 1993, and a Ph.D. degree in
 2 Psychology in 2001.
 3 **Q.** And can you tell the Court where you
 4 received those degrees?
 5 **A.** The Bachelor's Degree was at Mankato
 6 State University in Minnesota. And the Masters
 7 and Ph.D. degrees were at Utah State University.
 8 Then after that, I did an internship at Louisiana
 9 State University for my year-internship. And I
 10 earned my license to practice psychology as a
 11 psychologist in 2002.
 12 **Q.** All right. And where is that license?
 13 **A.** Here in Idaho.
 14 **Q.** Okay. And is that a board that you
 15 have to take?
 16 **A.** Yes.
 17 **Q.** And you have passed that test?
 18 **A.** Yes.
 19 **Q.** And are you current in your board
 20 licensing?
 21 **A.** Yes, I am.
 22 **Q.** And would you tell the Court where you
 23 are currently employed or how you're employed.
 24 **A.** I'm a private psychologist here in
 25 Meridian, Idaho. I do 95 percent forensic work.

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1 that you are a D.E.
 2 What does that mean?
 3 **A.** I'm a designated examiner, and that's
 4 somebody who goes into the hospitals who -- for
 5 somebody who's been --
 6 **THE COURT:** The Court is familiar with that.
 7 Proceed.
 8 **MS. BENNETTS:** Thank you.
 9 **Q.** (BY MS. BENNETTS) All right. Sir,
 10 could you tell the Court if you know a gentlemen
 11 by the name of Farron Hawkins?
 12 **A.** Yes, I do.
 13 **Q.** And how do you know Mr. Hawkins?
 14 **A.** I met with him in July of this year to
 15 do an evaluation.
 16 **Q.** And is he in the courtroom today? Do
 17 you see him?
 18 **A.** Yes, he's sitting next to the counsel.
 19 **Q.** Wearing the yellow?
 20 **A.** Yes.
 21 **Q.** And you indicated you saw him in July
 22 and August of this year, 2010?
 23 **A.** Yes, I did.
 24 **Q.** Do you recall if there had been a time
 25 prior to 2010 when you were asked to go out and do

1 an evaluation of Mr. Hawkins?

2 A. Well, actually, I think it was in 2008
3 that an order for a 19-2522 evaluation, or
4 something like that was the order, that I was
5 supposed to see Mr. Hawkins at that time.

6 And when I was in the room waiting for
7 him, he came into the room. And I told him what
8 he was there for, and he declined to participate
9 in that evaluation, because he said he needed to
10 get clearance from his attorney or something like
11 that. So that was the first time I had met him.

12 Q. And back in 2008, when you were asked
13 to perform the 19-2522 evaluation, were you ever
14 able to complete that?

15 A. Oh, no.

16 Q. Okay. So Mr. Hawkins did not cooperate
17 at that time with that evaluation; is that
18 correct?

19 A. Right. As soon as he walked in, and I
20 told him what I was there for, he refused to
21 participate.

22 Q. Okay. Now, were you asked, in this
23 case, at this present time in 2010, by Dr. Estess
24 to see Mr. Hawkins and perform an evaluation?

25 A. Yes.

1 Q. And I assume the charges, and what the
2 charges and the penalties are for those charges?

3 A. Correct.

4 Q. And does it also explain to him that
5 you are evaluating his competency to be able to
6 assist in his defense?

7 A. Correct, yes.

8 Q. And as you explained those things to
9 him and had him read the informed consent, did he
10 appear to understand those things?

11 A. Yes.

12 Q. Did you have any concern that he was
13 not understanding what you were there for and what
14 you were doing?

15 A. No.

16 Q. Did it appear to you that he appeared
17 competent to make those decisions at that time?

18 A. Yes.

19 Q. And you indicated he did, in fact, sign
20 the form, the consent form?

21 A. It looked like he did, yes.

22 Q. Okay. Are you referring to some of
23 your notes?

24 A. I'm referring to my evaluation, where I
25 said that he did sign an informed consent form.

1 Q. Pursuant to an 18-211 order?

2 A. Yes, I was.

3 Q. And, specifically, you indicate that,
4 in a report that you prepared, that you met with
5 him on two occasions, two separate occasions?

6 A. Right. I believe the first occasion,
7 he refused to participate until he got clearance
8 from his attorney or something.

9 And then I went back in August, 4th I
10 believe, and was able to do the evaluation at that
11 time.

12 Q. Okay. And in your report to
13 Judge McLaughlin, you indicate you explained the
14 18-211 process to Mr. Hawkins; is that correct?

15 A. Yes.

16 Q. And how did you go about explaining
17 that to him?

18 A. I told him about it. And I believe I
19 -- there's an informed consent form also that he
20 read, and that describes the 18-211 procedures.

21 Q. And, specifically, when you explained
22 the procedures, does it include the fact that
23 you're evaluating whether or not he is competent
24 to understand the proceedings?

25 A. Absolutely, yes.

1 So...

2 Q. All right. And have you had the
3 opportunity to review your evaluation prior to
4 coming into court today?

5 A. Yes.

6 Q. Now, prior to actually writing this
7 report that you have referenced here, did you do
8 several things before actually writing the report
9 to Judge McLaughlin? Did you do things prior to
10 actually filling out the report?

11 A. I talked to Mr. Hawkins. I evaluated
12 him. I talked to him.

13 Q. And how long was your evaluation of
14 him?

15 A. It was about an hour and a half to two
16 hours.

17 Q. Okay. Did you administer any tests?

18 A. Yes.

19 Q. Which tests did you administer?

20 A. I administered the SIRS and the
21 Evaluation of Competency to Stand Trial, revised.

22 Q. What is the SIRS?

23 A. It is a Structured Interview of
24 Reported Systems, second addition. And that's an
25 assessment to determine if somebody is malingering

1 a mental illness.

2 Q. And is that a test that Mr. Hawkins has
3 to fill out any questions and answer questions?

4 A. No. That test is completed by me
5 asking him questions and him answering them
6 verbally.

7 Q. Okay. And what is the ECST revised
8 report?

9 A. That is the competency evaluation,
10 where I ask him questions regarding the
11 court-related questions that are involved in
12 competency.

13 Q. Okay.

14 A. And he then answers them verbally.

15 Q. Okay. Again, he doesn't have to fill
16 out any paperwork?

17 A. Correct.

18 Q. Now, also prior to preparing your
19 report, did you have a discussion with
20 Mr. Hawkins' attorney at the time, Dennis
21 Benjamin?

22 A. I did, yes.

23 Q. And did you also have a discussion with
24 Dr. Estess prior to filling out your report?

25 A. Yes.

1 Q. Okay. And so I take it that prior to
2 submitting your report to the Court, that you were
3 kind of struggling a little bit with this
4 evaluation.

5 Is that a fair statement?

6 A. It would have been better to have more
7 collateral information, yes.

8 Q. Okay. And your initial opinion about
9 the defendant's competency in this report to
10 Judge McLaughlin was he was able to understand the
11 proceedings?

12 MR. SUTTON: Your Honor, I think she's
13 leading her witness. She can ask him what he
14 said.

15 THE COURT: Sustained. Rephrase.

16 Q. (BY MS. BENNETTS) What was your initial
17 take on this when you prepared your initial report
18 for Judge McLaughlin?

19 A. You mean the conclusion?

20 Q. Yes.

21 A. My conclusion with Mr. Hawkins was that
22 he did have a factual understanding of the
23 court-related procedures. But throughout that, my
24 whole interview with him, he was perseverating on
25 the fact that he was -- had been trained in part

1 Q. Did you do anything else other than
2 what you just described for preparing this report
3 for Judge McLaughlin, in your preparation for
4 this? And I'm just talking prior to this.

5 A. Not that I can recall.

6 Q. Okay. Do you recall if you had
7 reviewed, at the time you prepared this initial
8 report, any collateral information?

9 A. I remember talking to Mr. Benjamin and
10 asking him or telling him that I would really like
11 to see the records from the prison, because I knew
12 he had been out there for a while.

13 And I've got -- I've been out -- I used
14 to work at the prison for eight years, and seven
15 years at a maximum security institution. And I
16 know that if somebody is presenting one way to me
17 in an evaluation, that it would be extremely
18 difficult to maintain that presentation throughout
19 the whole time at the prison, when they're being
20 observed 24 hours a day.

21 So I was really hoping to be able to
22 have access to the prison records prior to writing
23 my evaluation, but I wasn't provided those records
24 until after I had submitted my evaluation to the
25 Court.

1 of the C.I.A. and the D.I.A., and he had this
2 government involvement. And he presented that
3 consistently throughout that interview with me,
4 and led me to believe, and to believe at that
5 time, that he was delusional in regards to his
6 interactions with those government agencies.

7 And because of that, you know, that
8 very fixed and, I guess, relevant delusion that he
9 had, that was the reason that I had, at that time,
10 found him not competent to proceed, because his
11 whole -- everything that he talked about had to do
12 with his government involvement and how that led
13 to his alleged crime.

14 Q. Now, since you prepared that report,
15 have you had the opportunity to review collateral
16 material that you did not have the opportunity to
17 review prior to submitting your report to
18 Judge McLaughlin?

19 A. I have, yes.

20 Q. And what collateral information have
21 you reviewed?

22 A. I was able to get the records from the
23 Department of Corrections for the year and a half
24 or two years that he was out there. And I was
25 also able to review the notes from the

1 psychiatrist out at the prison, notes from
2 treatment staff out at the prison. There was
3 quite an extensive pile of information that was
4 provided to me at that time.

5 I was also able to review some
6 evaluations more recently regarding Mr. Hawkins'
7 significant other, his wife, Darcy, and also
8 another report that was conducted on Mr. Hawkins
9 by Michael Johnston. And also I was able to speak
10 with Dr. Estess again, who had gained other
11 collateral information regarding Mr. Hawkins.

12 So there was quite a bit of information
13 that I was able to obtain and to, I guess, digest
14 after I had submitted the report to the Court.

15 Q. Okay. And we're going to kind of walk
16 through each of those, starting with the Idaho
17 Department of Corrections record.

18 And I believe you indicated it was
19 about a year and a half, approximately May of 2008
20 through about May of 2010, somewhere around that
21 time frame?

22 A. Yeah, a good year and a half, probably
23 two years or so, yeah.

24 Q. And did those records assist in forming
25 your opinion about Mr. Hawkins?

1 Q. Did this report also assist in forming
2 your opinion as you sit here today?

3 A. Yes.

4 MS. BENNETTS: I would ask to admit State's
5 Exhibit No. 3, Your Honor.

6 MR. SUTTON: No objection.

7 THE COURT: It's admitted.

8 Q. (BY MS. BENNETTS) Now, you also
9 indicated that you reviewed an evaluation of a
10 Darcy Burbick that was prepared by someone by the
11 name of Delawyer; is that correct?

12 A. Correct, yes.

13 THE COURT: If we could have Exhibit No. 3,
14 please. And if you need to refer to that later,
15 we'll give it right back to you.

16 MS. BENNETTS: And if I could have
17 Dr. Sombke -- show him what's been premarked as
18 State's Exhibit No. 4.

19 Q. (BY MS. BENNETTS) And if you can tell
20 me if you recognize State's Exhibit No. 4?

21 A. Yes.

22 Q. What is it?

23 A. It's the evaluation of Darcy Burbick by
24 Dr. Delawyer.

25 Q. And when was that prepared?

1 A. Yes, they helped greatly, yes.

2 Q. Okay. And we'll get to that in just a
3 minute.

4 You also indicated you reviewed a
5 report from, I believe, Dr. Johnston; is that
6 correct?

7 A. Yes.

8 MS. BENNETTS: And I've shown Counsel what's
9 been marked as State's Exhibit No. 3, premarked.
10 If you could show it to the witness, please.

11 Q. (BY MS. BENNETTS) Dr. Sombke, is
12 State's Exhibit No. 3 the report that you
13 referenced?

14 A. Yes, it is.

15 Q. And who authored that report?

16 A. Dr. Michael Johnston.

17 Q. And what is the date that he authored
18 that report?

19 A. It looks like it was March 20th, 2008.

20 Q. Is that the report that you just
21 recently had the opportunity to review?

22 A. Yes, I saw that, reviewed it yesterday.

23 Q. Okay. And was that provided to you by
24 Mr. Sutton?

25 A. Yes.

1 A. That was prepared -- it looks like he
2 did it in October of 2006.

3 Q. And was that a document, do you recall,
4 prepared for a particular purpose?

5 A. I think this was an evaluation on
6 Darcy, and I think it had to do with the custody
7 of their children.

8 Q. Okay. And is that a report that was
9 also provided to you by Mr. Sutton?

10 A. Yes.

11 Q. And is that a recent submission that
12 you have?

13 A. Yes. Yesterday.

14 Q. Yesterday?

15 A. Right.

16 Q. Your Honor, I would also ask to admit
17 State's Exhibit No. 4.

18 MR. SUTTON: No objection, Your Honor.

19 THE COURT: It will be admitted.

20 Q. (BY MS. BENNETT) And this State's
21 Exhibit No. 4, did that also assist in forming
22 your current opinion as to Mr. Hawkins'
23 competency?

24 A. Yes, it did.

25 Q. Now, the collateral information that

1 you received from Dr. Estess, would you tell the
2 Court, in general terms, what kind of collateral
3 information you received from him and his work in
4 this case?

5 A. Most of that came from an interview or
6 phone conversation that Dr. Estess had with Darcy,
7 and her impressions of Mr. Hawkins, and then also
8 Dr. Estess's impression of Mr. Hawkins following
9 his conversation with Darcy.

10 Q. Okay. And the information that
11 Dr. Estess provided you about Darcy's history with
12 Mr. Hawkins, was that consistent with State's
13 Exhibit No. 4, the report from --

14 A. It was. It was surprisingly
15 consistent, yes.

16 Q. Did those things that you've just
17 described from Dr. Estess also assist you in
18 forming an opinion that you have here today as you
19 sit here in court?

20 A. Yes.

21 Q. I have, as well, two other items that I
22 believe you may have reviewed. State's Exhibit
23 Nos. 1 and 2 have been premarked for evidence.

24 If I can show you those, and have you,
25 first of all, tell us what State's Exhibit No. 1

1 is.

2 A. It looks like a letter. I think I
3 remember. I did review this also. This is the
4 letter it looks like Mr. Hawkins sent to his
5 parents.

6 Q. Okay. And does it appear to be, if you
7 look at the last couple of pages, actually two
8 letters that were sent from the jail?

9 A. I think you're right. Correct.

10 Q. Were you aware of how these letters
11 came into the possession of -- I think you said
12 Mr. Sutton gave those to you?

13 A. No, these aren't the letters that
14 Mr. Sutton gave me. These are -- I think I've
15 gotten -- these are from Dr. Estess or from the
16 prosecution. I'm not sure.

17 Q. Okay. All right. But you have had the
18 opportunity to review these letters then --

19 A. Yes.

20 Q. -- that Mr. Hawkins wrote?

21 A. Yes.

22 Q. And who did he write those letters to?

23 A. His parents.

24 Q. And did those letters also assist you
25 in forming the opinion that you have now?

1 A. Yes, they did help.

2 Q. Okay. And then State's Exhibit No. 2,
3 is that another document, I believe, that the
4 State did provide to you to review?

5 A. They did, yes.

6 Q. And what is that document?

7 A. It's an inmate grievance form. It
8 looks like it's from the jail.

9 Q. And what's the date on that?

10 A. 6-16, 2010.

11 Q. Is that a grievance that Mr. Hawkins
12 wrote to jail staff?

13 A. It looks like it, yes.

14 Q. And did that also assist in forming the
15 opinion that you have today?

16 A. Not that much, not really.

17 MS. BENNETTS: Your Honor, I would ask to
18 admit, and I think it may assist the doctor, so I
19 won't ask for the grievance, but for the letter,
20 State's Exhibit No. 1, to be admitted.

21 MR. SUTTON: No objection.

22 THE COURT: No objections? Admitted.

23 Q. (BY MS. BENNETTS) Just to clarify, did
24 you find any dates on the letters that were
25 written to Mr. Hawkins' parents?

1 A. I don't recall that. It was my
2 understanding that he wrote them while he was in
3 the jail recently. But...

4 Q. But other than that, they're not dated,
5 specifically?

6 A. Not that I can see.

7 Q. All right. Thank you. All right.

8 Now, since preparing that report,
9 you've listed the various things that you've
10 reviewed to assist in forming this opinion that
11 you have today.

12 Is there anything that I've missed that
13 you reviewed prior to coming into court today, but
14 after you wrote your initial report?

15 A. Not that I can recall.

16 Q. Sir, based upon all the information
17 that you have reviewed in this case that you've
18 just stated for the Court, as well as the
19 interviews and the things that you did in
20 preparing your report, the collateral information
21 that you've reviewed since you prepared that
22 report, do you have an opinion about Mr. Hawkins'
23 competency as you sit here today?

24 A. I do.

25 Q. And has your opinion changed from what

1 it was in the initial 18-211 report?

2 A. Yes.

3 Q. And could you tell the Court -- do you
4 believe that the opinion you now hold about his
5 competency, that you hold it to a reasonable
6 degree of medical certainty?

7 A. Yes.

8 Q. And what is your opinion?

9 A. I believe he's competent to proceed at
10 this time.

11 Q. And when you say "competent," do you
12 believe that he has the capacity to understand the
13 proceedings against him?

14 A. Yes, he's always had that capacity.

15 Even in my initial evaluation, I thought he had
16 the capacity.

17 Q. Okay. And do you believe that he has
18 the capacity to assist his lawyer in defending him
19 in this case?

20 A. Yes, if he chooses to do so, yes.

21 Q. Would you explain what you mean by
22 that?

23 A. Mr. Hawkins has a history of being
24 evasive and resistant to working with people,
25 working with attorneys, working with

1 psychologists, mental health professionals. He
2 just doesn't like to comply with testing. He's
3 never really complied with a lot of testing, in
4 the psychological realm anyway.

5 So it seems to me that he just choses
6 not to do that. But he has the capacity to
7 participate meaningfully in his defense with an
8 attorney.

9 Q. But he would have to chose to do that,
10 in order for that to occur; is that correct?

11 A. That's my opinion, yes.

12 Q. But he has the capacity to chose to do
13 it?

14 A. Yes.

15 Q. Now, can you tell the Court why you
16 believe that your opinion has changed from the
17 initial report until today, after you've had the
18 opportunity to review other materials?

19 A. The main issue with Mr. Hawkins and his
20 competency to proceed, in my view, is that to
21 determine whether he was delusional or not. And
22 that -- to me, that's the biggest issue.

23 And at the time of my evaluation, he
24 presented as delusional, and I was interpreting
25 him as being delusional about the C.I.A. and the

1 D.I.A. and all of the government agencies that he
2 says he was involved with that reportedly caused
3 him to allegedly commit his crimes.

4 So, at the time, I didn't have the
5 collateral information that I would like to have
6 had to be able to see -- if somebody holds a
7 delusion for that fixed and for that period of
8 time, where he says it's been 20 years or more,
9 that delusion would permeate his life throughout
10 all segments of his life, where it wouldn't be
11 just compartmentalized right when he talks in
12 court or whatever. It would be part of his life.

13 And reviewing the collateral
14 information from the prison and the other
15 evaluations I saw, I saw almost no references to
16 the C.I.A., the D.I.A., or government agencies.
17 It wasn't present in what Mr. Hawkins was telling
18 other people. So it was just -- it was just not
19 consistent with the true delusional disorder that
20 would have been in those other conversations.

21 He changed his story a lot in the other
22 information that I was -- the collateral
23 information. There was a lot of changes about his
24 stories, with his history, and with his wife, and
25 all that.

1 And all that information leads me to
2 believe that he's not delusional. And I think a
3 lot of this stuff are stories that he is just
4 telling people to try to benefit his current
5 situation.

6 Q. Would you characterize it as
7 manipulation?

8 A. Absolutely.

9 Q. Would you characterize it as
10 malingering?

11 MR. SUTTON: Your Honor, she's leading.

12 THE COURT: Leading. I'll sustain.
13 Rephrase.

14 Q. (BY MS. BENNETTS) How would you
15 characterize the purpose that Mr. Hawkins believes
16 that -- what he's attempting to accomplish with
17 what he's doing here?

18 A. I don't think it's necessarily
19 malingering. Malingering is when you're
20 exaggerating psychological systems. He's never
21 said he's mentally ill. He's never said that he's
22 mentally ill or has a mental health problem. He's
23 presenting on the surface that he's got these
24 stories, and he's got these titles with the
25 government, but there's never been any evidence to

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1 that, and that they're just stories.

2 And, initially, like I said, I thought
3 they were delusionally based, where there was a
4 psychotic or psychosis element to it. But in
5 order for that to be true, then he would be
6 talking about these things in other areas of his
7 life, throughout the prison and all the other
8 encounters that he would have.

9 And that was never present with any of
10 the collateral information that I had. Even with
11 his wife -- or Darcy, there was hardly any mention
12 of that ever. And they lived in a van together
13 for two years, where that's all -- that's where
14 they lived. So they were always together. And
15 for him not to have that a part of his life during
16 that time, leaves me to believe that he wasn't
17 delusional.

18 Q. And so is this something that you
19 mentioned earlier about his choice to work with
20 his defense attorney? Is it similar where he
21 choses when to talk about the C.I.A. and the
22 government?

23 A. That is my impression, yes.

24 Q. And is that your opinion that you have
25 today as you sit here before Judge McLaughlin?

1 A. Yes.

2 Q. Now, you indicated that in reviewing
3 Dr. Johnston's report, that you had the
4 opportunity to do that before you came into court
5 today, but after you had prepared the report; is
6 that correct?

7 A. Right. I reviewed it yesterday.

8 Q. Okay. And can you tell the Court how
9 that psychological evaluation that was prepared
10 back in 2008 informed your opinion that you have
11 today?

12 A. Again, there was really no mention of
13 the C.I.A. or the D.I.A. or anything like that.

14 And another thing that he really
15 portrayed to Dr. Johnston is that he has these
16 other personalities, at least two other
17 personalities besides Mr. Hawkins, besides Farron.
18 He called them David and Able, I believe.

19 So he kind of presented himself as
20 somebody having multiple personality disorder when
21 he was talking to Dr. Johnston, but that was never
22 an issue when I talked to him. That was never
23 brought up. That was never even hinted at that
24 there was another personality or another person in
25 him committing these crimes or doing these bad.

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1 things.

2 So it was surprising for me to see
3 that. And it leaves me to believe that he's kind
4 of manipulating, playing around with the mental
5 health professionals too.

6 Q. And you indicated you also reviewed the
7 Ada County jail documents, that there were some
8 documents provided to you; is that correct?

9 A. I believe so, just some basic
10 information on -- in there. Some contact notes
11 and stuff like that.

12 Q. And was there anything in the Ada
13 County jail record that would indicate this kind
14 of government conspiracy?

15 A. No, I didn't see any -- hardly anything
16 like that.

17 Q. Now, in Mr. Delawyer's report, was
18 there any indication in there -- and this is the
19 report he did about Darcy -- about why there were
20 these bank robberies, why they occurred?

21 A. Well, in the report, from Darcy's
22 account, they robbed banks because they ran out of
23 money. And that was -- her whole account was that
24 they didn't have any other choices, and that they
25 ran out of money, and they needed money, and there

1 were no other choices.

2 There was no -- hardly any mention of
3 that he was doing this because the C.I.A. is
4 making him do it, or the D.I.A. is making him do
5 it, or anybody else is making him do it. It was
6 because they needed money.

7 Q. And, again, I think you said this, but
8 just to clarify, there wasn't any C.I.A.
9 information in Dr. Johnston's report; is that
10 correct?

11 A. Not that I recall. I mean, if there
12 was, there was maybe one mention of some sort of
13 government thing that he didn't go into, but not
14 in the sense that he told me about it, where it
15 was just permeating everything he thought about,
16 which was the government agency interactions. And
17 that wasn't there.

18 And Dr. Johnston, the most thing that I
19 came about -- came from with that is the
20 presentation that he gave him with the multiple
21 personality disorder stuff.

22 Q. And did he mention anything in State's
23 Exhibit No. 1, which are the letters to his
24 parents again, about C.I.A. or government theory
25 or anything like that?

9 (Pages 33 to 36)

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<p>1 A. I don't recall seeing anything in there 2 about the government agency stuff, in those 3 letters either. 4 Q. So if Mr. Hawkins were delusional, is 5 that something that you would expect to see in 6 these other avenues he just talked about, in these 7 other areas of his life? 8 A. Absolutely. People who are delusional, 9 it's part of their life. And it just comes out. 10 They write about it all the time, and there was no 11 mention of that in any of his writings. 12 Q. And can you tell the Court what's the 13 difference between delusional and psychotic? 14 A. Well, a delusion is a symptom of 15 psychosis. Psychosis is a very broad term. It 16 encompasses hallucination, delusion, ideas of 17 reference. You know, there's a lot of different 18 types of psychosis. There's psychotic symptoms, 19 and delusions are just one type of psychotic 20 symptom. 21 Q. Is there anything in your review of 22 your materials that you described that would lead 23 you to conclude that Mr. Hawkins is psychotic? 24 A. No. 25 Q. Now, you actually rendered a DSM4</p>	<p>1 diagnosis of Mr. Hawkins when you prepared your 2 report for His Honor. 3 Do you recall that? 4 A. Yes, I do. 5 Q. And do you have that in front of you? 6 A. I do. 7 Q. Okay. If you could tell the Court, if 8 you're able to, how your opinion with regard to 9 the DSM4 diagnosis, that you previously stated 10 that -- when you first prepared the initial 18-211 11 report, has changed. And starting with, if you 12 can, with Axis I. 13 A. Well, like I said before, I no longer 14 believe he is delusional. I no longer believe he 15 has delusional disorder. 16 I do -- one thing -- something that was 17 consistent throughout the records and through his 18 presentation with me is that he does appear to 19 have some obsessive-compulsive personality 20 disorder, obsessive-compulsive traits, with the 21 cleanliness, and the orderliness, and rigidity, 22 and those things. And so that is a consistent 23 diagnosis that I would keep in this diagnostic 24 summary here. 25 But a lot of the other stuff, it's</p>
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<p>1 based on faulty information. It's based on 2 incomplete collateral information that I did not 3 have at the time of the evaluation. So it's 4 really difficult to make a good diagnosis on 5 somebody who's not, in your own opinion, being 6 truthful to you. So you really don't know what 7 what's really going on with this individual, what 8 really his symptoms might be -- might or might not 9 be. 10 But, like I said, the one consistent 11 thing is that obsessive trait that he has. 12 Q. And is that something that would 13 interfere with his ability to understand the 14 proceedings or assist his lawyer in his defense? 15 A. No. 16 Q. Now, you indicated some things in your 17 initial report that I do kind of want to go back 18 through to help the Court understand, if you 19 changed your opinion with regard to that or not. 20 First of all, you indicated that the 21 defendant did have good insight into his current 22 legal situation. I think you said it was a rather 23 good insight. 24 Is that still accurate as you sit here 25 today?</p>	<p>1 A. Yeah. There's -- yes, that is my 2 opinion that he still has good insight, and he 3 still understands the Court stuff very well. 4 Q. Okay. And I think you also indicated 5 he had an understanding of the players, the roles 6 of the prosecutor, of the judge, the defense 7 attorney, the jury? 8 A. Right. That hasn't changed. 9 Q. And you indicated that he understood 10 what he had done that brought him into the court? 11 A. Yes, he did. 12 Q. And I think you also indicated that -- 13 let's see here -- that he denied experiencing any 14 delusions and denied experiencing any 15 hallucinations? 16 A. Correct. 17 Q. Okay. All right. And he had been very 18 resistant to taking psychotropic medication, 19 because he did not believe he was suffering from a 20 mental illness? 21 MR. SUTTON: Your Honor, again, I think the 22 doctor can respond with just asking a question 23 like: What did he observe? 24 THE COURT: Well, those -- I'm going to 25 overrule. I think those are specific as to what</p>

10 (Pages 37 to 40)

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1 he stated. Overruled.

2 You may answer the question, Doctor.

3 MS. BENNETTS: Do you want me to reask it?

4 THE COURT: If you could break it down a
5 little bit. It was a bit compound. I'll sustain
6 on that.

7 MS. BENNETTS: Okay.

8 Q. (BY MS. BENNETTS) Did he tell you that
9 he had been resistant to taking psychotropic
10 medication?

11 A. He said he didn't want take
12 medication, because he didn't think he was
13 mentally ill.

14 Q. Now, on page No. 3 of your report, you
15 indicated that he repeatedly told you that this
16 evaluation would hurt him in some way.

17 Do you recall that?

18 A. Yes.

19 Q. Could you explain that to the Court
20 what he was telling you?

21 A. I really couldn't understand what he
22 was saying. He kept saying that he thought I was
23 going to hurt him in some way or another.

24 It's my impression that he wanted to be
25 found competent, so he could go on with the court

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1 hearing. And he was sort of afraid that what he
2 was telling me was going to lead me to believe
3 that he was not competent. And that was my
4 impression about him saying this is going to hurt
5 him in some manner.

6 Q. And has that opinion changed as you sit
7 here today in light of the collateral information?

8 A. What opinion, I guess?

9 Q. Your impression that he wanted to be
10 found competent.

11 A. Well, I think he probably still does
12 want to be found competent.

13 Q. Okay. And did you believe that he was
14 fully cooperative with you in this evaluation
15 process?

16 A. No. It was very difficult to get any
17 information from him. He wasn't -- like I said,
18 throughout a lot of the testing, I had to kind of
19 -- he wanted to stop. And I said, then this is
20 meaningless if I don't complete this, and so he
21 would be willing to continue on.

22 It was like pulling teeth to get any
23 information out of him and to get any of the
24 testing completed from him. And he did
25 categorically refuse to any of the

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1 paper-and-pencil testing.

2 Q. And by "paper-and-pencil testing," what
3 do you mean by that?

4 A. Like personality inventories,
5 personality tests that I would have liked to have
6 been able to administer to him.

7 Q. And he refused those?

8 A. He did. But at the time, he was wasn't
9 even able to. He was shackled to his waste, so he
10 wouldn't have been able to do them anyway. But I
11 had asked if him if we were able to work this out,
12 would he be willing to take these, and he said no.

13 Q. And those paper-and-pencil tests, the
14 personality tests, would that have been included
15 in the MMPI too?

16 A. It would have been included.

17 Q. And what is that?

18 A. Personality Assessment Inventory.

19 Q. And what kind of information would you
20 have been able to gather from that test?

21 A. Very similar to an MMPI. It's --
22 they're very similar tests in the psychological
23 realm.

24 Q. But they're personality tests? They
25 help you to determine --

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1 A. Right. They help in making diagnoses
2 on psychopathology and diagnosing mental illness.

3 Q. Okay. All right. And are there any
4 other paper-pencil tests the you would have liked
5 to have been able to give him, had he agreed to do
6 so?

7 A. I would have like to have given him a
8 IQ test. That would have been some paper and
9 pencil.

10 There was one other test that I would
11 like to have given him, but it wasn't necessarily
12 a paper-and-pencil test. This was just a
13 question-and-answer test.

14 But by the time I got done with what I
15 got done, he said, I'm done. I'm not going to
16 answer anymore.

17 Q. And that was about an hour or so, you
18 said?

19 A. It might have been two hours.

20 Q. Two hours?

21 A. Because the first takes at least 30
22 minutes, and the other one takes about 30 minutes,
23 and then the interview. So probably about an hour
24 and a half, two hours.

25 Q. Now, in your review of Dr. Johnston's

11 (Pages 41 to 44)

1 report back in 2008, was Mr. Hawkins cooperative
2 in allowing Dr. Johnston to do testing,
3 administering tests?

4 A. No. And that was another discrepancy
5 that I noticed, in that he told Dr. Johnston that
6 he didn't want to do the testing, because he
7 didn't want to hurt his case by being able to
8 represent himself. And that was my understanding
9 from Dr. Johnston.

10 But he told me he didn't want to do
11 paper-and-pencil testing because the C.I.A. and
12 the D.I.A. and the government agencies had always
13 taught him and told him never to answer -- never
14 to take those psychological tests.

15 Q. And why is that significant to you?

16 A. Because if the government had told him
17 that, and that was his story with me, it should
18 have been the story with Dr. Johnston. Because he
19 had been working, apparently, in the delusions or
20 in his mind, with the government for 20 years.

21 And so when Dr. Johnston asked him to
22 take these tests in 2008, if that was true, then
23 he should have told Dr. Johnston, I don't want to
24 do it, because the government -- I've been trained
25 not to do that. I've been told not to do that by

1 these government agencies, which is what he told
2 me.

3 That should have been consistent
4 throughout that time, and it wasn't. He told
5 Dr. Johnston something totally different.

6 MS. BENNETTS: Can I have one moment, Your
7 Honor?

8 THE COURT: You may.

9 MS. BENNETTS: Your Honor, I don't have any
10 further questions of Dr. Sombke. Thank you for
11 your time.

12 THE COURT: All right. Mr. Sutton, you may
13 cross examine.

14 MR. SUTTON: Thank you.

15 EXAMINATION

16 BY MR. SUTTON:

17 Q. Good morning, Doctor.

18 A. Good morning, Counsel.

19 Q. Dr. Sombke, you and I had occasion to
20 visit in regard to some additional information
21 that my client wanted you to see.

22 A. Yes.

23 Q. And in that regard, specifically, he
24 wanted me to send to you, for your review, the
25

1 letters from his two older boys.

2 A. Yes. I believe those boys, I believe,
3 are his stepsons. They're Darcy's.

4 Q. Yeah, they're Darcy's children.

5 A. I did see those.

6 Q. And you did review those?

7 A. Yes.

8 Q. In addition to which I provided you a
9 copy of the psychological evaluation of Darcy?

10 A. Correct.

11 Q. And you, in fact, reviewed that report?

12 A. I did. Yes, I did.

13 Q. And did you take that into account when
14 you changed your opinion from what it was before
15 to where it is today?

16 A. I did actually, yes.

17 Q. Okay. I believe I also provided you a
18 copy of Dr. Johnston's report?

19 A. Correct.

20 Q. And, as I understand it, that's part of
21 his records that are contained within the
22 Department of Corrections?

23 A. I'm not sure where they came from.

24 Q. Were you ever aware of any incident
25 that took place at the state penitentiary back in

1 2007, where apparently a couple of inmates hung
2 themselves -- one inmate hung himself? Were you
3 aware of this?

4 A. I don't know. I stopped working there
5 in December of 2005. So I --

6 Q. You have no independent knowledge of
7 that?

8 A. No.

9 Q. Okay. Thank you.

10 Did anyone place any pressure on you or
11 implore you to take a second look at your first
12 opinion before you came to court today?

13 A. Pressured me?

14 Q. Yes.

15 A. No.

16 Q. When you first entered your first
17 opinion, is it your testimony that the prison
18 records that you spoke of were not available?

19 A. I didn't have those. Correct.

20 Q. But since the date of your first
21 opinion until today, you have had access to prison
22 records; is that correct?

23 A. Yes. Yes.

24 Q. All right. As I understand your
25 testimony, in the past, you've worked eight years

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1 in the Idaho prison system, seven years in a max?

2 A. Yes.

3 Q. And you've seen prison records. You
4 know what the standard format is like?

5 A. Yes.

6 Q. You're versed in those reports?

7 A. Yes.

8 Q. In your review of looking at -- I
9 presume for consistency, do I understand your
10 testimony accurately that you did not find
11 consistency in this disclosure about interaction
12 with government, and government involvement,
13 between the reports from Dr. Johnston to yourself?

14 A. From Dr. Johnston's?

15 Q. Yes.

16 A. Right. There was hardly any, if any,
17 reference to the government agencies, or about him
18 being trained in any manner.

19 Q. And that's an integral -- that presents
20 -- that played an integral part with you forming
21 your opinion about his competency. Is that true?

22 A. That is another piece of the puzzle,
23 yes.

24 Q. Do I understand your testimony
25 accurately that you believe that Mr. Hawkins wants

1 to be found competent?

2 A. That's my understanding. That was my
3 belief when I was interviewing him before.

4 Q. You indicated you had met him on two
5 occasions. The first occasion, he refused to
6 visit with you?

7 A. In July of this year, yeah.

8 Q. Subsequently, in August, he did agree
9 to visit with you?

10 A. Yes.

11 Q. And during that visit, you were able to
12 administrator a number of tests to him?

13 A. A couple, yes.

14 Q. And as I understand it, the -- he just
15 refused to complete a couple of your tests that
16 you wanted, namely the paper-and-pencil test?

17 A. Well, he was going to refuse. Like I
18 said, he wasn't really physically able to complete
19 the tests at that time, because his hands were
20 shackled to his waist.

21 But I had asked if we could work around
22 that, he didn't -- he just said, I'm not going to
23 do that.

24 Q. So this decision not to do that, not to
25 participate, would you say it was because he is

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1 afraid of the system because of his government
2 contacts?

3 A. Well, he told me it was because he was
4 told and trained not to take those tests by the
5 government agencies.

6 Q. Did you find any substance to support
7 his contention that he had C.I.A., D.I.A.,
8 government agency connections?

9 A. I don't know of any evidence to support
10 that.

11 Q. When you reviewed the evaluation of
12 Darcy, did her -- was her evaluation subsequently
13 different -- let me restate that, please.

14 Her explanation of why these bank
15 robberies occurred was substantively different
16 than what Farron Hawkins said to you?

17 A. Said to who? What Farron told me is
18 very different from what Darcy told Dr. Delawyer.

19 Q. Thank you for figuring out my question
20 and then answering it.

21 A. Okay.

22 Q. So -- and Darcy, she said they just ran
23 out of money to rob banks?

24 A. That's what I read in the report, yes.

25 Q. And you considered that testimony

1 whenever you -- that report whenever you made your
2 subsequent opinions you've made here today?

3 A. Yes.

4 Q. Do you recall what Farron told you the
5 reason was why the bank robberies were occurring?

6 A. He told me that the government agencies
7 had been after him, and they were threatening his
8 family if he didn't do these things for him.

9 Q. Again, I may have asked this
10 previously. But you found no significant degree
11 of consistency between the findings of
12 Dr. Johnston and yourself?

13 A. In regards to what, I guess?

14 Q. The reason for him committing these
15 crimes, his explanation for why these events took
16 place.

17 A. I don't recall --

18 Q. Was there consistency between
19 Johnston's report and your evaluation?

20 A. I don't recall him talking too much
21 about the crimes with Dr. Johnston.

22 But one thing that was discrepant is
23 that he talked to Dr. Johnston about -- he alluded
24 to having multiple personalities. And he never
25 mentioned that, or this was never even a

13 (Pages 49 to 52)

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<p>1 consideration of mine when I was talking to him.</p> <p>2 Q. You indicated that his</p> <p>3 obsessive-compulsive trait, you think, existed</p> <p>4 throughout your interaction with him; is that</p> <p>5 correct?</p> <p>6 A. I think that's very consistent. I</p> <p>7 think he does have obsessive-compulsive disorder</p> <p>8 and personality disorder.</p> <p>9 Q. Do you believe that would prevent him</p> <p>10 from providing assistance to his counsel in court?</p> <p>11 A. No.</p> <p>12 Q. You believe he has a good insight of</p> <p>13 what's going on in these proceedings as he sits</p> <p>14 here today?</p> <p>15 A. I believe he has very good insight of</p> <p>16 what's going on.</p> <p>17 Q. Okay. Do you believe he understands</p> <p>18 what brought him to court?</p> <p>19 A. Yes.</p> <p>20 Q. Is it your opinion today that you don't</p> <p>21 believe that he is mentally ill?</p> <p>22 A. I don't believe he's got a delusional</p> <p>23 disorder.</p> <p>24 Q. You don't believe he has a delusional</p> <p>25 disorder?</p>	<p>1 A. I do not believe he has a delusional</p> <p>2 disorder.</p> <p>3 Q. Is it accurate to say that after two</p> <p>4 hours of his testing that you provided to him that</p> <p>5 he is the one who shut down the meeting?</p> <p>6 A. When I was talking to him?</p> <p>7 Q. Yes.</p> <p>8 A. Yeah, I mean, it was -- it had been</p> <p>9 going on for a while. And he said he was done.</p> <p>10 This was the last -- I barely got the last one</p> <p>11 done, and that was the research. I barely got</p> <p>12 that completed before he said, I'm not going to</p> <p>13 continue anymore.</p> <p>14 Q. Doctor, let me ask this question, if I</p> <p>15 may: Do you believe it's possible that another</p> <p>16 doctor with your same skills, your same degree,</p> <p>17 your same experience -- similar experience, could</p> <p>18 derive a different opinion than the one you are</p> <p>19 presenting here this afternoon -- or this morning?</p> <p>20 A. Regarding his competency?</p> <p>21 Q. Yes.</p> <p>22 A. Like I said, the whole issue with his</p> <p>23 competency goes down to whether he is delusional</p> <p>24 or not. And it's possible that some other</p> <p>25 psychologist might see him as delusional. But if</p>
Page 55	Page 56
<p>1 they have access to all of the information, all of</p> <p>2 the collateral information that I have, I think</p> <p>3 it's reasonable for any mental health professional</p> <p>4 to believe that he's not delusional.</p> <p>5 Q. Thank you, Doctor.</p> <p>6 MR. SUTTON: I have no further questions,</p> <p>7 Your Honor.</p> <p>8 THE COURT: Redirect?</p> <p>9 MS. BENNETTS: None, Your Honor. Thank you.</p> <p>10 THE COURT: I just have a couple of</p> <p>11 questions, Doctor.</p> <p>12 Q. (BY THE COURT) Dr. Johnston, in his</p> <p>13 report, did point out a provisional bipolar, not</p> <p>14 otherwise specified, and a psychotic disorder not</p> <p>15 otherwise specified.</p> <p>16 Did you -- in your evaluation with Mr.</p> <p>17 Hawkins, did you find any of those Axis I</p> <p>18 diagnoses to be the case?</p> <p>19 A. Not the bipolar disorder. Did you say</p> <p>20 psychotic disorder not otherwise specified?</p> <p>21 Q. Yes.</p> <p>22 A. That's a very broad diagnosis that</p> <p>23 encompasses a lot of the mental health issues,</p> <p>24 and...</p> <p>25 Q. Do you think he has any Axis I</p>	<p>1 diagnosis at this time?</p> <p>2 A. The obsessive-compulsive disorder.</p> <p>3 Q. Well, I thought that was Axis II?</p> <p>4 A. Well, there's obsessive-compulsive</p> <p>5 disorder and obsessive-compulsive personality</p> <p>6 disorder. And I, actually, think he meets both</p> <p>7 criteria.</p> <p>8 Q. Okay. So he's got an Axis I and II?</p> <p>9 A. That's -- I think so, yes.</p> <p>10 Q. Okay.</p> <p>11 A. Like I said, it's really difficult to</p> <p>12 make an accurate diagnosis when you're not really</p> <p>13 getting the full story.</p> <p>14 THE COURT: Any questions in light of</p> <p>15 Court's?</p> <p>16 MS. BENNETTS: No, Your Honor.</p> <p>17 THE COURT: Mr. Sutton?</p> <p>18 MR. HAWKINS: I would have things to say.</p> <p>19 THE COURT: Well, just go through your</p> <p>20 attorney, Mr. Hawkins.</p> <p>21 MR. HAWKINS: I don't think he's prepared,</p> <p>22 for one thing. For two, the things that he said</p> <p>23 there that had to do with Mr. Estess, that was not</p> <p>24 in the prison. That was in jail.</p> <p>25 THE COURT: Mr. Hawkins, if you want to get</p>

14 (Pages 53 to 56)

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1 up and testify, you'll certainly have that
2 opportunity.

3 Mr. Sutton, did you have any questions
4 of Dr. Sombke?

5 **MR. SUTTON:** Your Honor, if I may, and I
6 think I've already asked this question.

7 **THE COURT:** We'll give you another
8 opportunity.
9

FURTHER EXAMINATION

10 **BY MR. SUTTON:**

11 **Q.** For purposes of clarification, I think
12 my client has some concerns.

13 I did deliver to your office two
14 letters that were written by his oldest step-boys?

15 **A.** Yes.

16 **Q.** Is that correct?

17 **A.** Yes.

18 **Q.** And there is a number of things
19 contained in that, in those letters; correct?

20 **A.** Yeah -- yes.

21 **Q.** And you reviewed all of the information
22 that they presented?

23 **A.** I did, yes.

24 **Q.** And I believe I called you yesterday,
25

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1 and again this morning we talked, to make certain
2 that you had reviewed those.

3 Have you weighed -- excuse me -- the
4 information contained in those letters?

5 **A.** Yes, I did look at this information,
6 yes.

7 **Q.** And to allay my client's concern, you
8 did specifically look at those letters and review
9 those letters, so that you felt you were
10 conversant with them to be able to determine what
11 weight you would place upon them?

12 **A.** Right. Yes. And also, I don't know
13 where they came from, or how we received those, or
14 any of that information.

15 **Q.** Okay. Thank you.

16 **MR. SUTTON:** Your Honor, no further
17 questions.

18 **MS. BENNETTS:** Nothing on that, Your Honor.

19 **THE COURT:** May this witness be excused?

20 **MS. BENNETTS:** We may ask him to stay, Your
21 Honor --

22 **THE COURT:** All right.

23 **MS. BENNETTS:** -- in the event that
24 Mr. Hawkins does testify.

25 **THE COURT:** Doctor, you get to stick around.

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1 **THE WITNESS:** Okay.

2 **THE COURT:** Call your next witness.

3 **MS. BENNETTS:** Thank you. Dr. Estess.

4 **THE COURT:** Dr. Estess, the gentleman in the
5 blue coat here, Lee, will give you some
6 instructions.

7 **THE CLERK:** Do you solemnly swear or affirm
8 that the testimony you will give in this cause now
9 before the Court will be the truth, the whole
10 truth, and nothing but the truth, so help you God?

11 **DR. ESTESS:** I do.

12 **THE COURT:** You may proceed.

13 **MS. BENNETTS:** Thank you.

14 You might want to make sure you grab
15 the top of that before you pour the water. There
16 you go.

17 **DR. ESTESS:** Thanks.

18 **MS. BENNETTS:** You bet.
19

EXAMINATION

20 **BY MS. BENNETTS:**

21 **Q.** Sir, could you tell us your name and
22 spell your last name.

23 **A.** Michael Eggeling Estess. That's
24 E-G-G-E-L-I-N-G, and E-S-T-E-S-S.
25

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1 **Q.** Sir, what is your current occupation?

2 **A.** I'm a medical doctor, and I specialize
3 in psychiatry.

4 **Q.** And how long have you done that
5 profession?

6 **A.** Well, I graduated from medical school
7 in 1966, and I finished my residency, four years
8 of psychiatry and neurology, in 1970. And I've
9 been in the practice of psychiatry since then.

10 **Q.** And are you board certified?

11 **A.** Yes, I'm board certified in psychiatry
12 by the American Board of Psychiatry and Neurology
13 in 1973.

14 **Q.** Okay. And, sir, what is your current
15 occupation in terms of your employment? What do
16 you do every day?

17 **A.** I, basically, just am in private
18 practice and always have been.

19 **Q.** And do you work specifically at the
20 Ada County jail on occasion?

21 **A.** Not on occasion. I've been the
22 consultant to the Ada County jail for -- since
23 1973. And -- but since 2005, I have had a clinic
24 there, and now have three Master's-level social
25 workers, and I go there weekly or biweekly, and

15 (Pages 57 to 60)

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1 I'm on call 24/7 from the telephone from the Ada
2 County jail.

3 Q. What kind of work do you do, first of
4 all, in the jail? What is your specific job
5 purpose?

6 A. I just see and evaluate inmates with
7 respect to whether or not they have significant
8 problems, or need care or treatment, primarily
9 with medication.

10 And I also assist the jail with housing
11 and placement and people that have behavioral
12 problems and need some sort of a particular
13 approach to those behavioral problems, as well as
14 mental problems.

15 And I advise the doctor, who's the
16 medical director there, and the two nurse
17 practitioners, one being a nurse practitioner, and
18 then the social workers on my view of how they
19 ought to approach certain problems.

20 Q. And if you see a need for an inmate who
21 needs prescriptions, do you prescribe medication
22 for mental health?

23 A. Well, I discuss that with the inmate,
24 and if they want to take medicine, and if it's
25 reasonable, I do.

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1 Q. And how often do you think you would
2 have had contact with him?

3 A. Oh, not very much. I talked with him.
4 And, more importantly, even though I saw him
5 individually, more importantly, with inmates that
6 have potential problems, the social workers that
7 work at the county jail had frequent contact with
8 almost all inmates particularly if they have
9 problems. And security officers have a great deal
10 of contact with them.

11 And much of what I do in the
12 corrections setting, and it was true in the
13 prisons as well, where I worked for 24 years, the
14 security officers and the observations of security
15 staff and other members of the jail staff are
16 really quite important and quite helpful to me to
17 determine whether or not a person has legitimate
18 mental health problems.

19 Q. And when you had contact again with
20 Mr. Hawkins back in the time frame of 2006 through
21 2008, did you also discuss Mr. Hawkins with the
22 folks that you just talked about, your staff, as
23 well as the jail and security staff at the jail?

24 A. Oh, yes, many times. A number of
25 times, actually.

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1 And if they're not competent to say yes
2 or no, then we do it sometimes involuntarily.

3 Q. And, sir, as part of your duties in
4 your career, have you evaluated a number of
5 patients with regard to competency to proceed to
6 trial?

7 A. Yes.

8 Q. Could you tell the Court if you know a
9 gentleman by the name of Farron Hawkins?

10 A. Yes.

11 Q. And how do you know Mr. Hawkins?

12 A. I first saw Farron -- I believe it was
13 in '06. That's what I think. But I went in when
14 he was entered into the Ada County jail. I saw
15 him on several occasions in '06 and '07 prior to
16 his trial and stuff like that.

17 Q. And is he seated in the courtroom here
18 today?

19 A. Yes.

20 Q. All right. Now, did you have contact
21 with Mr. Hawkins, on occasion at least, when he
22 was in the jail, as you've described being
23 approximately '06 to April of '08, in that time
24 frame?

25 A. Yes.

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1 Q. And at the time that you had
2 Mr. Hawkins in the jail or that you saw him in the
3 jail, did you ever prescribe any medication for
4 him?

5 A. I think I gave him -- offered him some
6 Prosaic, and I think he would take it. I think
7 the depression is an off-and-on problem with
8 Mr. Hawkins. And I think he took Prosaic for a
9 little while, but I don't think he took it very
10 long.

11 Q. And Prosaic would be to treat
12 depression?

13 A. It's an antidepressant, yes, ma'am.

14 Q. And during the time that Mr. Hawkins
15 was in the jail, again, the time frame we talked
16 about was 2006 to 2008, did he require any other
17 mental health treatment from you or your staff?

18 A. No, not really. It was just all a
19 matter of placement and management with respect to
20 housing and things like that.

21 Q. And so, at that time, did you believe
22 that he suffered from any mental illness while he
23 was in the jail, at least that you were aware of,
24 with what you talked about, the connections that
25 you had?

16 (Pages 61 to 64)

1 A. No, nor did any of the other mental
2 health staff, who talked with him and were aware
3 of how he conducted himself, what he talked about,
4 and how he behaved.

5 Q. All right. And those are things that
6 you would rely on in forming your opinion; is that
7 correct?

8 A. Yes, ma'am.

9 Q. Now, did you have an opinion at all
10 about him, in terms of multiple personality
11 disorder or anything, at the time that he was in
12 the jail in 2006 and 2008?

13 A. Yes.

14 Q. Could you tell the Court what your
15 opinion was at that time?

16 A. I thought he was a very arrogant
17 narcissi, paranoid, inadequate, dependent,
18 dishonest, antisocial character. And an angry,
19 petulant, manipulative, deceitful, and dishonest,
20 and coy -- thinks more of his intelligence than he
21 has, and presents himself in that smart-aleck kind
22 of sarcastic, pseudo fashion.

23 That was the problem that he -- he sort
24 of wants to play games, mind games, with people,
25 and he doesn't understand that people understand

1 more than he does. And he has an exaggerated
2 notion about his ability to manipulate and
3 maneuver.

4 And what he doesn't understand is the
5 importance of consistency. And he -- he's
6 inconsistent. He's affectively and cognitively
7 appropriate, which means there's no incongruity
8 with regards to how he presents himself and what
9 he says. The way that he tries to present the
10 silliness of delusions -- and a delusion if I may
11 define it -- you didn't ask me.

12 Q. If you would define it for the Court.

13 A. As Dr. Sombke said, a delusion is a
14 psychotic symptom, like a hallucination. A
15 delusion is a belief system. It's an illogical
16 thought or idea that the person believes, which is
17 not true, and which is not subject to rational
18 argumentation and discussion. That is a delusion.

19 As Dr. Sombke said, the people that are
20 legitimately psychotic have a rather consistent
21 way of either hiding or presenting systems and
22 signs of psychosis. What people say, like no
23 matter who they are, is not nearly as important as
24 how they present affectively, how they present
25 behaviorally, and how they present themselves

1 otherwise.

2 I mean, conversation is cheap, and
3 people can say anything they want. But there must
4 be some other collateral, clinical evidence of
5 what a person represents.

6 And the one thing that everyone came to
7 the conclusion about when they interacted with Mr.
8 Hawkins is that he was a manipulative, dishonest,
9 obsessive-compulsive, paranoid character who was
10 not mentally ill. No one in the jail thought he
11 was. I certainly didn't think he was. I thought
12 he got depressed.

13 He was actually a very sad character,
14 but I think he is a sad character because he is so
15 inadequate and dependent. He's dependent on
16 control. And -- so you know he's a sad guy, but I
17 think people like Mr. Hawkins are really sad.

18 Q. Okay. And so fast forwarding to
19 approximately May of 2010, did Judge McLaughlin or
20 you conduct an 18-211 evaluation of the defendant
21 to determine whether or not he was competent to
22 stand trial at this time? Do you recall?

23 A. Yeah, I recall the order. I don't
24 recall the dates or anything like that.

25 Q. Okay. All right. And your focus would

1 be to determine whether or not Mr. Hawkins could
2 have the capacity to understand the proceeding and
3 assist in his defense.

4 Is that correct, essentially, what you
5 do with an 18-211?

6 A. Yes.

7 Q. And did you ask for some assistance
8 from Dr. Sombke in order to fulfill your
9 obligation to his His Honor?

10 A. Yes.

11 Q. And you heard Dr. Sombke speak here in
12 court today; is that correct?

13 A. Yes.

14 Q. Okay. And we'll get to that in just a
15 minute.

16 Now, did you, in fact, conduct your own
17 competency evaluation of Mr. Hawkins as best you
18 could under the circumstances?

19 A. Yes.

20 Q. And, first of all, were you able to
21 speak with Mr. Hawkins and interview him in order
22 to fulfill His Honor's order of an 18-211?

23 A. Yes. I spoke with him several times,
24 and all he ever said to me was he didn't want to
25 talk to me unless he talked with his attorney.

1 Then he told me he didn't want to talk to me, and
2 then he wouldn't talk to his attorney.

3 And I just assumed he wanted to play
4 opossum and make it hard for me to do this
5 evaluation, but I went ahead and conducted those
6 things, which I thought were relevant to the
7 evaluation and important. And I did what I
8 thought was adequate and reasonable to conclude or
9 to form some opinions.

10 Q. Okay. And in coming to those
11 conclusions, you did a number of things; is that
12 correct?

13 A. Yes, ma'am.

14 Q. And you've listed some of those on
15 State's Exhibit No. 5, I believe.

16 MS. BENNETTS: And if we could have State's
17 Exhibit No. 5 shown to the witness.

18 Q. (BY MS. BENNETTS) Dr. Estess, just to
19 take you through those, I believe Nos. 1 through 9
20 are the things that you did prior to preparing
21 your report to Judge McLaughlin; is that correct?

22 A. Yes. As it turns out, that's not all I
23 did, but I left a couple -- I left some out.

24 Q. All right. And so, for the record, I
25 wanted to go through them.

1 Idaho Department of Corrections, who I've known
2 for many, many years, and had her look into
3 whether or not there had been any treatment of
4 Mr. Hawkins from a mental health perspective. And
5 she couldn't find any records.

6 I also spoke with Scott Ellison, who is
7 the psychiatrist out there now. I believe he
8 started the 1st of 2010, and he couldn't remember
9 anything about Mr. Hawkins. As it turns out, he
10 did see -- when I reviewed all the records
11 subsequently, and just recently, medical records
12 of the Department of Corrections, Dr. Ellison did
13 see him. But in any event, I reviewed those
14 records.

15 Let's see. The other thing was -- I
16 can't remember if I reviewed -- I think maybe I
17 did. Because I reviewed a letter that he had
18 written -- I can't remember the time, but I think
19 I reviewed the letter prior to that -- you know,
20 the letter that he had written chastising his
21 parents for, you know, talking to me and that sort
22 of thing.

23 That was four pages. I think it was
24 two letters, actually. And let's see. And that's
25 --

1 If you could tell the Court what you
2 did, and then we'll have the things that you have
3 done since that time.

4 A. Okee dokee.

5 I spoke with Dr. Sombke. I reviewed
6 the presentence report that was dated April the
7 1st of '08. I reviewed a polygraph report that
8 was dated November the 13th of '06. I read a copy
9 of the opinion of the Court of Appeals of the
10 State of Idaho from December 30th of '09. I
11 reviewed records again and spoke with the staff.

12 And I went over old records and
13 contemporary records of Mr. Hawkins since he was
14 in the Ada County jail. I spoke with his defense
15 attorney Dennis Benjamin. I spoke with the
16 prosecuting attorney, yourself, and Roger Moore.

17 I spoke with Mr. Hawkins' biological
18 mother on the phone at some length. I spoke with
19 Mr. Hawkins' ex-wife, who was -- I refer to her as
20 his wife, and she wasn't his wife, his common-law
21 wife. They were never formally married. I've
22 talked with her at least twice, if not three times
23 about his history and information.

24 And the other thing I did was I called
25 and talked with the chief social worker at the

1 Q. Okay.

2 A. That's all I can remember what I did.

3 Q. And did you also -- I think you may
4 have said this, but did you review Dr. Sombke's
5 psychological report from back in -- well, it's
6 not dated, but the initial 18-211 evaluation?

7 A. Yes. Sure I did. I reviewed his
8 report, and I spoke with him --

9 Q. All right.

10 A. -- to some length.

11 Q. And have you spoken to him since you
12 prepared your report?

13 A. Yes, on a number of occasions.

14 Q. All right. The letter that you -- or
15 the two letters that you indicated you reviewed in
16 which Mr. Hawkins sent to his parents, I believe
17 it's State's Exhibit No. 1. I just want you to
18 take a look at it and make sure we're talking
19 about the same letters that your reviewed.

20 MS. BENNETTS: And if we can show him
21 State's No. 2 or at least pull State's No. 2, I'm
22 going to ask him about that as well.

23 THE COURT: I've got Nos. 3, 4 and 6.

24 MS. BENNETTS: It hadn't been admitted to
25 Madame Clerk yet.

THE COURT: It hasn't been admitted.

Q. (BY MS. BENNETTS) First of all, Dr. Estess, if you could take a look at State's Exhibit No. 1 and tell me if you recognize that.

A. Yes, ma'am.

Q. And what are -- what is State's Exhibit No. 1?

A. It's a letter that was produced by Mr. Hawkins to his mom and dad. There appears to be two of them, but they're well written and long and stuff.

Q. Okay. And then if you could look at State's Exhibit No. 2.

Did you have an opportunity to review that as well, prior to coming into court today?

A. Yes, ma'am, in some recent time, but subsequent to my report.

Q. Subsequent, okay.

And did that assist you at all in forming an opinion that I'll be asking you about for the Court here in a moment?

A. Yes, ma'am.

MS. BENNETTS: May I admit State's Exhibit No. 2, Your Honor?

MR. SUTTON: No objection.

THE COURT: It's admitted.

Q. (BY MS. BENNETTS) Now, in addition -- and I realize some of these things you reviewed after you prepared your report. But I wanted to ask you about whether or not you reviewed any police reports related to the robberies and the Oregon arrest of Mr. Hawkins?

A. Yes, I've reviewed some investigative reporting, FBI reporting. I don't know the date, but it was interviews of Mr. Hawkins prior to his trial. And I have reviewed some other police reports, material, that had to do with the police's interaction or the authorities's interaction with Mr. Hawkins, you know, during his arrest and after his arrest.

I've also reviewed the transcripts of a number of the hearings that were held prior to his trial. And then I've also reviewed a great deal of the transcript of the trial, where he represented himself. And I've had an opportunity to review all of that.

As well as, I've had an opportunity to review all of the medical records at the Idaho Department of Corrections. And I've had an opportunity to review Dr. Michael Johnston's

psychological evaluation, as well as Dr. Dave Delawyer's psychological evaluation, which were done back in '06.

Q. And those two last reports that you mentioned, Dr. Johnston and Dr. Delawyer's reports, were those reviewed today?

A. Yes, ma'am.

Q. Provided to you today?

A. Yes, ma'am.

Q. All right. Now, the information that you obtained from Mr. Hawkins biological mother, what was the nature of the information that you believed important to form an opinion in this case that you obtained from her?

A. I just took an ordinary developmental history about her and her family and about Mr. Hawkins. I approached it just like I would if Mr. Hawkins was a patient of mine. I told her who I was, what I was doing, and why I felt it would be useful if I had an opportunity to visit with her about Mr. Hawkins.

And she was quite nice, and she was very pleasant, and she was very informative. And of significance, not only did she give me some historical developmental data, which -- again, one

of the things that's really hard when you tell lies, it's really hard to be consistent.

It's kind of like what your parents told you: If you never lie, you never have to worry about what you said. And when you don't tell the truth, you run into it.

And there's so much discrepancy in the stories that Mr. Hawkins tells that he's obviously an incredible liar. He tells untruths to the service of various things, basically what he wants to get accomplished.

And, actually, his mother told me that she was sort of perplexed by Mr. Hawkins, even developmentally. He did okay in high school. He grew up. He had a sister, who he has routinely said was mentally ill. And he's even told people at the jail that they were going to kill him, just like the people at the state hospital killed his sister.

Well, he had a sister who went to the state hospital. She never talked, and she died at the age of 12 in the Idaho state school. The notion that she was mentally ill was not true and all that.

But the thing that even -- and then

1 when there was a time Mr. Hawkins worked for his
2 parents, he worked for his dad, drove a truck.
3 But his mom said it was really sort of a problem,
4 because she did the scheduling and the books. And
5 they would have a schedule for Mr. Hawkins, and he
6 didn't usually follow it. And they never knew
7 where he was or what he did.

8 She clearly kind of accommodated some
9 unreasonableness on Mr. Hawkins' part. And I
10 think without appreciating it, they enabled some
11 immature and very narcissistic behavior in
12 Mr. Hawkins.

13 They have no idea what that is like.
14 They are not very psychologically minded, at least
15 she's not. I'm sure the husband and his father is
16 not.

17 They're very well-meaning and nice
18 people. I didn't ever meet or talk to the dad.
19 And I might mention that I didn't really try to
20 talk to the mother. I just called, and she
21 answered the phone.

22 So she gave me quite a bit of the
23 history about his subsequent relationships. She
24 told me about his initial criminal involvement.
25 She basically -- in a very -- and, of course, a

1 clinical significance, aside from his
2 developmental history, which really just
3 consistently underscores his personality issues
4 from my perspective.

5 Q. And why is that, Doctor?

6 A. Well, it's just consistent with what
7 you see clinically with what I've seen in the last
8 few years. And it's consistent with the kind of
9 history you get from other people.

10 Like, you know, now that I've had an
11 opportunity to collect data and information, you
12 know, I was -- well, anyway. The thing that is
13 significant in the review of the material, and
14 Dr. Sombke eluded to this, and it was true in my
15 conversation with his mother, was what didn't come
16 out.

17 In other words, the mother and father
18 had no notion that he might be saying things that
19 were illogical, unreasonable. They never thought
20 he was mentally ill. They never thought he was
21 unusual or strange. He never talked with them
22 about conspiracies. He never talked with them
23 about the government. He never talked with them
24 about any this material that he subsequently has
25 talked about over the last, you know, number of

1 years.

2 Now, you could say, well, he just
3 didn't want to share that with them. But as
4 Dr. Sombke pointed out, people that are
5 legitimately psychotic, it's part of their being,
6 and they don't -- they can't selectively present
7 the signs and symptoms.

8 And one of the things that Mr. Hawkins
9 has done rather consistently is he's been
10 inconsistent. And he has selectively presented --
11 sometimes more intently than others, he has
12 selectively presented that information that would
13 make it appear as though he was controlled by
14 outside forces, that he might be mentally ill.

15 So it was what she didn't say and what
16 she didn't have a feeling for, and that was --
17 they thought he needed to see somebody, because he
18 was engaging in behavior that got him in trouble.
19 But they ever saw him as mentally ill, or unusual,
20 or strange, or inappropriate in his speech or his
21 behavior or his conversation, which really is
22 interesting, and certainly is consistent with the
23 opinion that I have contemporarily formed about
24 his circumstances.

25 Q. Okay. And similarly, you spoke with,

1 as you said, his -- who we'll call his wife,
2 common-law wife, Darcy Burbick; is that correct?

3 A. Yes, ma'am.

4 Q. And was that also consistent with your
5 conclusions based on your conversations with her?

6 A. Very. She gave a very -- I talked with
7 her a great deal, and she gave a very
8 reasonable -- even kind of a history about how she
9 met, and what she did, and how they lived, and why
10 they did it. And she's a reasonably bright lady
11 with two years of college. And this was her
12 second involvement.

13 And they met in a truck stop and that
14 sort of thing, and dated for eight or ten months,
15 and then started living together and stuff. And
16 her husband had killed himself, her first husband,
17 her husband that she was married to and the father
18 of her two children. He was an oil field worker,
19 and he didn't want to have a second child. And
20 that's why they broke up. She got pregnant the
21 second time. He didn't want the first child.

22 But, anyway, she got some money from
23 his death, and then the children got social
24 security. So Mr. Hawkins talked her into going
25 back to North Dakota, and they built a house with

1 the money that she got from her deceased husband.

2 And they didn't have enough to do it
3 all, so they put some on credit cards. But they
4 never borrowed any money, according to Ms. Hawkins
5 -- I mean, to Darcy.

6 And then that's when she got the postal
7 job, and he helped her do that, and then they
8 moved to Montana and she started work. She sort
9 of always worked.

10 It was when Mr. Hawkins represented to
11 Darcy that he couldn't get pregnant, because he
12 didn't have sperm, and he had been told that he
13 couldn't get anybody pregnant -- and, obviously,
14 this was untrue. And then when she got pregnant,
15 he had already started being physically abusive to
16 the boys and her on a regular basis. And he never
17 was physically abusive, that she knew, to the --
18 to any of his children.

19 But when she got pregnant, he got even
20 more possessive once the child was born. And he
21 never let his three children go to school. They
22 never let them have friends, never let them go and
23 do this sort of thing.

24 In any event, after a couple of kids or
25 so -- I think I can remember the time frame -- she

1 wasn't comfortable keeping her children away from
2 school in that community, where she had grown up
3 or was well known. And that's why they came back
4 to the Boise area, because she wasn't comfortable
5 with that.

6 But his children, he regularly used a
7 PVC pipe and other kinds of things, and he
8 deprived them of food and made them wash their
9 hands a bunch of times. And/or if they went to
10 the store, they had to take their clothes off and
11 take two or three showers, as part of his OCD
12 stuff.

13 But he also was quite cruel with
14 respect to the physical abuse and emotional abuse.
15 And he even starved them. He didn't -- he also
16 made them do calisthenics at night after his three
17 children had gone to bed.

18 So what's interesting is that even as
19 she lays out this history, which sounds
20 interesting enough, the history she gave in '06 is
21 very similar so Dr. Delawyer's report. But she
22 was -- what was interesting is that, it's like
23 with the mother, she never had any feeling that
24 there was any conspiracy. She never had the
25 feeling that there was any control. She never

1 heard those stories.

2 What she heard early on in their
3 relationship was he represented, and he
4 represented this other others, but he represented
5 to her, and it was pretty consistent, that he had
6 an important job in Washington, and that he had
7 money in assets. And so, therefore, he was a
8 substantive person.

9 So he held out his relationship to the
10 government as something that just underscores his
11 authority and his power. And that's kind of
12 always how -- and she thought, oh, well, he treats
13 my kids nice, and he has money, and he has assets,
14 and he was working at the time, and they were
15 dating. But he subsequently held his relationship
16 with the government out as something that was
17 positive. That's how he presented it to Darcy.
18 And...

19 Q. Was there talk of Nigel and C.I.A. and
20 things like that?

21 A. No, nothing. There was nothing that
22 was -- nothing that made her think at all that he
23 was being controlled or that he even thought he
24 was. You know, as things went forward, she --
25 actually, I don't know what she knew or what she

1 didn't know from the trial or how to participate.

2 But, again, what was really interesting
3 about her history was what wasn't there with
4 regard to anything that might be interpreted as
5 illogical, inappropriate, or delusional, or
6 anything like that. She saw him as not wanting to
7 work, as being very controlling.

8 And when they came back here --

9 Q. Boise, you mean?

10 A. -- to the Boise area after she wasn't
11 comfortable staying in North Dakota, one of the
12 things that happened, they did live off the social
13 security money from her first husband. And then
14 what happened was -- the reason they got into the
15 homeless situation is that Mr. Hawkins got picked
16 up for petty theft, and there was a warrant out
17 for his arrest. And so they couldn't go and get a
18 job anymore, and that's when they started living
19 in the van.

20 And he continued to be physically
21 abusive and emotionally abusive to her. And when
22 they were driving around in the van in Utah,
23 Montana, Wyoming, Idaho, and what not, if she did
24 something to interfere with the children's play
25 station or something like that, he would have his

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<p>1 two children pull her hair and scratch her. She 2 was incredibly tormented lady, and I think feared 3 for her life, and I think that's why she stayed 4 for so long. 5 The first two years of that marriage, 6 that did not occur. But he became more 7 controlling as his children got older and stuff 8 like that, but certainly was -- and then what 9 happened was they did run out of money. And he -- 10 in order to get money, she indicates that he 11 taught the children to rob banks, the two older 12 boys. 13 It was the second boy he tended to beat 14 the most and stuff like that. But it was the boys 15 -- he told the boys and her that it was important 16 for them to rob banks, because he was to important 17 to the family. And if he was caught and got in 18 trouble, the family would not be as well off, that 19 he needed to be available for the family. 20 She represents that they robbed quite a 21 number of banks. They used primarily a note. But 22 then on the last occasion when they get caught, I 23 think it was in Colorado, they used a gun which 24 they had, and Mr. Hawkins recommended that. Then 25 they got in trouble. And now the 26 year old, I</p>	<p>1 think, gets out in 18. He's incarcerated. The 2 little boy went to juvenile corrections and all of 3 that. 4 She -- again, if she mentioned the 5 government or the whole -- it wasn't the C.I.A., 6 but it was his relationship to the government was 7 also something that made him important as opposed 8 to controlling him. So that's what I mean by he 9 altered his stories. 10 And people that knew him really well 11 never thought of him as overtly paranoid. They 12 saw him as controlling, and dominating, or 13 obsessive, and a clean guy, but they mostly saw 14 him as cruel and manipulative. 15 So -- which is interesting because, as 16 Dr. Sombke said, people who are legitimately 17 psychotic are strange in their thoughts, and the 18 people around notice it. Those kinds of things 19 are really easily noticed by families. 20 And when they are not there -- it's 21 just like the Department of Corrections records, 22 when that history is not available from people 23 that are around, just like when he had been in the 24 Ada County jail as long as he has, there's people 25 noticing appropriate thoughts and ideas and</p>
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<p>1 peculiar thoughts and ideas, so that there's some 2 smoke. You may not see the fire, but there's some 3 smoke. If people are legitimately psychotic -- I 4 mean, people just can't fake it. 5 So what didn't come out of my 6 conversation with Darcy was very significant. And 7 then she subsequently, of course, was arrested, 8 but not for long. And she subsequently went to a 9 women's shelter where she stayed for a year and 10 three quarters. She was there by herself for a 11 year and went through counseling, and her children 12 spent a month with Mr. Hawkins' parents. 13 And then they into foster care here in 14 Idaho, and then went to the women's shelter with 15 her down in Colorado. And they all were in 16 psychotherapy. Now, they're in school and stuff 17 like that. 18 But anyway, so that's -- I'm sorry 19 that's overstated, too much talk. I apologize. 20 Q. No. And I think just to back up a 21 little bit -- so I take it that this delusion 22 would have permeated things that you just talked 23 with Darcy and the defendant's mother. 24 So I take it that the C.I.A. and the 25 government conspiracies did not permeate into the</p>	<p>1 jail information that you're well aware of that 2 you've described; is that correct? 3 A. That's correct. 4 Q. And it's not in the IDOC records that 5 you reviewed? Did that come out -- 6 A. That's correct. 7 Q. Okay. And what about in the letters 8 that he wrote to his parents, State's Exhibit 9 No. 1? 10 A. Well, they're great letters. You know, 11 they're full of untruths. Basically, he 12 misrepresents things. 13 But the thing about the letters is 14 they're logical. They're goal directed. They're 15 organized. And in some cases, there's some really 16 nice stuff. He even gets about as reflective as I 17 would think he would ever get when he questions 18 his own judgements, and he gets concerned and 19 starts sounding like he's getting a little maudlin 20 because of some of his own judgements or some of 21 his own decisions, which he actually says in the 22 letter. 23 But what he doesn't say is there's no 24 conspiratorial -- there's no inappropriate 25 psychotic process here that -- it just doesn't</p>

22 (Pages 85 to 88)

1 come out. He's mostly talking about how people
2 don't treat him right, and how I am an agent of
3 the prosecutor, and other people are this and
4 that, and he's already not trusting his attorney.

5 But he's so narcissistic and has such
6 an exaggerated notion of his own ability, he
7 thinks he can tell stories and get away with it.
8 But he thinks he knows more than anybody else, and
9 he can represent himself. That's what is kind of
10 silly, but it is consistent with his personality.

11 So those letters, you can ask me about
12 the grievances. No, those letters are very, very
13 telling. Here he is upset about the fact that his
14 mother visited with me, which might make her a
15 witness, and on and on, and then he apologizes.

16 But it's not a disjointed letter. It
17 is a normal letter. It's not truthful in some
18 areas, but it's just a letter. And it doesn't
19 indicate that anything is inappropriate. That's
20 the thing about that stuff.

21 Q. Okay. And then what about State's
22 Exhibit No. 2, the grievance, as an example of --

23 A. Again, in recent times, this was a June
24 thing. And the kind of thing that matters to me
25 is I've seen thousands of grievances given in my

1 things wrong with them, crazy and organic.

2 In any event, you can imagine how some
3 of the grievances look. This is a normal
4 grievance from a normal guy, and he got his
5 problem resolved. And at the end of it, the
6 inmate says, I have reviewed the response and of
7 the people they get responses from, the security
8 staff and stuff. And he accepted the responses of
9 the security staff. He checked "I accept the
10 response." So, I mean, it's just a grievance.

11 The fact that -- what's, again,
12 important about it is it's not there. There is
13 nothing there that would reflect illogical,
14 inappropriate thought process. And as Dr. Sombke
15 pointed out a number of times, legitimately
16 psychotic people cannot pick and choose when they
17 present psychotic symptoms. They can hide them,
18 but they can't pick and choose.

19 Q. All right. And it's fair to say you've
20 had a wide range, not only at the time frame to
21 look at in the all the work that you've done, but
22 you've had specific examples that you've reviewed?

23 A. Yes.

24 Q. And so based on all of that, all of the
25 information that I got about what you've reviewed

1 many years at the prison, where I mainly also was
2 just a contract person, but -- and in the county
3 jail.

4 And grievances are very telling. I
5 mean, when people articulate or explain why they
6 don't like what was going on, they -- some people
7 do it better than others, because Mr. Hawkins is
8 bright, and he expresses himself well. And he had
9 just an ordinary problem where he felt he was
10 shorted money, and he wasn't being treated
11 properly, which he articulated in a logical and
12 reasonable fashion, even though I have no idea
13 whether it was reasonable.

14 But his presentation of it and the
15 written word is really quite appropriate. I mean,
16 it's reasonable. It's easy to understand.
17 There's nothing in it that would reflect peculiar,
18 unusual, or psychotic process.

19 Now, you can imagine that a lot of
20 grievances that we have reviewed, hundreds, you
21 know, every month -- that I don't review all of
22 those, of course -- but you can imagine, because
23 we have so many people that are legitimately
24 psychotic in the county jail, and you can imagine
25 there are a lot of people that kind of have weird

1 that you just talked to the Court about on this
2 comprehensive review that you've done, do you hold
3 an opinion as to the defendant's, Mr. Hawkins,
4 capacity to understand the proceeding against him
5 and to assist in his defense at the present time?

6 A. Yes, ma'am.

7 Q. Do you hold that opinion to a
8 reasonable degree of medical certainty?

9 A. Yes.

10 Q. And what is your opinion?

11 A. I think he is perfectly competent to
12 meet all the criteria that would allow him to be
13 determined competent to stand trial. There's
14 nothing about him, in my opinion, that would
15 preclude his ability to confer with his attorney
16 in his own defense or to understand the nature and
17 circumstances of his legal difficulties.

18 I think I would see him as perfectly
19 competent.

20 Q. Okay. And do you have an opinion or a
21 diagnosis, a DSM4 diagnosis, that you could offer
22 the court in terms of, for example, Axis I?

23 A. Well, you know, I'm not sure that he is
24 so dysfunctional because of his OCD that I would
25 see that as anymore than personality problems. I

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<p>1 don't think he's -- but, you know, I wouldn't 2 disagree with Dr. Sombke, who I have a great deal 3 of respect for. 4 And, you know, he thinks it's an Axis I 5 diagnosis. I think he's more dysthymic. I think 6 he gets depression. I think it's situational. I 7 think he doesn't have a recurrent major 8 depression. 9 I think a lot of his depression and 10 dysthymia is narcissistic entry, which is just 11 somebody that wants to get something and doesn't 12 get what they want, and so they get sad, or they 13 get found out, and they get unhappy. 14 We treat that all the time. It's 15 called dysthymia. And I don't think he has a 16 major depression. I think most of his problems 17 are personality problems. And I've diagnosed him, 18 I think, as having a mixed personality disorder. 19 I really think he does have some legitimate OCD 20 symptoms. 21 I think he has the mixed personality 22 disorder, as I indicated earlier. I think he's a 23 self-centered, narcissistic, paranoid, which just 24 means insecure and inadequate, which means he sees 25 the world as threatening, antisocial. He's</p>	<p>1 comfortable with doing illegal things, and the 2 kind of person -- and I think all of that, you 3 need to understand that those diagnoses, those 4 personality diagnoses, really reflect an 5 inadequate, dependent, insecure person 6 developmentally, which is what is so sad about 7 those things, because it makes him a very 8 unsuccessful person. 9 And so his personality problems are the 10 biggest thing in my opinion. And then he doesn't 11 have any other significant medical problems in his 12 level of functioning. Other than the legal issues 13 and his incarceration, he would really be rather 14 good. I mean, obviously, he got away with his 15 behavior for an awful long time before he got 16 caught. 17 Q. But certainly not the personality 18 disorder that you've talked about and 19 referenced -- those things would not preclude him 20 from being competent to understand the proceeding, 21 have the capacity to understand, as well as assist 22 his defense lawyer? 23 A. Not at all. 24 Q. Okay. And so I take it, and I think 25 you said this, but I want to make sure I</p>
Page 95	Page 96
<p>1 understand that you -- in your opinion, he is not 2 psychotic and not delusional; is that correct? 3 A. That is correct. 4 Q. Now, you also indicated you reviewed 5 portions of pretrial transcripts, as well as 6 portions of the trial transcripts; is that 7 correct? 8 A. Yes, ma'am. 9 Q. Okay. And -- 10 THE COURT: What we're going to do is we're 11 going to take a quick break. So we'll take a 12 ten-minute break. We'll be back at quarter after 13 the hour. 14 (Off the record.) 15 (Break taken from 11:05 a.m. to 11:17 16 a.m.) 17 THE BAILIFF: Court back in session. 18 THE COURT: You may be seated. All right. 19 We're back on the record folks in the State of 20 Idaho versus Farron Hawkins. And counsel and 21 defendant are present. 22 And you may continue with your direct 23 examination of Mr. Estess. 24 MS. BENNETTS: Thank you, Your Honor. 25 Q. (BY MS. BENNETTS) Dr. Estess, I did</p>	<p>1 want to take you back to something I should have 2 asked you earlier. And I know that 3 Judge McLaughlin knows your qualifications and 4 background. 5 But if you could, for the record, tell 6 the Court what background you have in working with 7 the Idaho Department of Corrections you've 8 mentioned a couple of times. 9 A. Yes, ma'am. Since I've been in private 10 practice here in 1973, I started seeing inmates at 11 the Idaho Department of Corrections, that is in 12 the old prison. And then when we moved out -- the 13 department moved out into the desert in the early 14 '70s. 15 Then I was basically a consultant for 16 the Idaho Department of Corrections and the 17 evaluation and care of inmates, and specifically 18 the supervision and direction of the evaluation 19 and treatment of the Idaho State Department of 20 Corrections maximum security facility for very 21 violent criminal offenders, which is unfortunately 22 where they put the penitentiary instead of a state 23 hospital. 24 So, basically, I did that until the 25 late '90s. And the maximum security facility</p>

24 (Pages 93 to 96)

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1 wasn't built until 1989, but -- so for over 20
2 years, I've evaluated and treated almost every
3 violent criminal offender in this state, and in
4 that general context. And so I've had a lot of
5 experience with inmates and victims.

6 Q. Now, when we broke, I was starting to
7 ask you whether or not you had reviewed portions
8 of pretrial transcripts in this case from back in,
9 I believe it would be, 2006 through about May of
10 2008.

11 A. Yes, ma'am.

12 Q. And did you have an opportunity to do
13 that before coming into court today?

14 A. Yes, ma'am.

15 Q. Do you recall specifically the portion
16 of transcripts that you had reviewed?

17 A. Gosh, no, a lot. I mean, you know --

18 Q. Did you review pretrial hearings?

19 A. I read all of those. I read those.

20 But the biggest part of that is with the trial
21 transcript. You know, but the pretrial things
22 were -- again, it really was fairly consistent.
23 It lies in the face of common sense that somebody
24 could be involved in that sort of circumstance and
25 do as good a job.

1 Relatively speaking, I think it was not
2 particularly good. And to have some sort of a
3 disabling mental illness, and Mr. Hawkins
4 certainly did okay, even though I thought he
5 wasn't very good on what he did.

6 Q. And by "very good," do you mean by
7 representing himself at trial?

8 A. Yes, ma'am, in such a way that the
9 lawyers and judge involved in the circumstances
10 thought he was being -- he was quality doing it,
11 which is very significant.

12 Q. And just to be clear, so Mr. Hawkins
13 through the pretrial proceedings was able to file
14 motions to be heard by His Honor and things of
15 that nature; is that correct?

16 A. Yes, I saw all of that.

17 Q. Okay. And Mr. Hawkins was able to
18 question witnesses, both on direct examination and
19 cross examination during the trial?

20 A. Yes, ma'am.

21 Q. And was he able to make arguments to
22 the jury and help select a jury in this case?

23 A. I didn't see him select the jury. I
24 brushed over that, because I thought it was just
25 more of the same.

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1 Q. So based on all those things, you have
2 an opinion that he was able to do that in, I think
3 you said, an adequate way?

4 A. Well, it was determined by people that
5 know a lot more about the law than I do that he
6 was doing it in an adequate way. It seemed
7 adequate to me, but I don't know the law enough to
8 know whether or not he's doing what needs to be
9 done or not. But it was determined by all the
10 people that know the law that he was doing it well
11 enough to represent himself.

12 Q. And do you base that on statements that
13 were made throughout the course of the transcripts
14 that you?

15 A. Yes, ma'am.

16 Q. By the Court and by --

17 A. Yes, ma'am.

18 Q. Now, based on your comprehensive review
19 again that you've talked about at length here
20 today, as well as -- and I want to you include the
21 things that you did back in 2006 and 2008, when
22 you saw Mr. Hawkins in the jail, and speaking with
23 the staff, and all the things that you've talked
24 about -- do you have an opinion as to whether or
25 not the defendant has the capacity to understand.

1 the proceedings against him and to assist in his
2 defense at the time that he was tried in this case
3 back in January of 2008?

4 A. Yes.

5 Q. And do you hold that opinion to a
6 reasonable degree of medical certainty?

7 A. Yes, ma'am.

8 Q. And what is your opinion?

9 A. I think he was perfectly competent to
10 understand the nature of the proceedings, to
11 confer with an attorney in his own defense and
12 understand what was going on. And, basically, I
13 thought he was competent to stand trial.

14 Q. Okay. And do you -- was there anything
15 that you reviewed in the materials that you've
16 talked about that would give you any reason to
17 think that he was not competent back in 2008 when
18 he tried this case?

19 A. No, ma'am.

20 Q. All right. You have reviewed the Idaho
21 Department of Corrections record. You indicated
22 that, I guess, that curve from the period of time
23 that he left the Ada County jail in 2008 until he
24 was brought back to the Ada County jail in 2010;
25 is that correct?

25 (Pages 97 to 100)

1 A. Yes, ma'am.

2 Q. Okay. And in those records, it
3 appeared when Mr. Moore and I were reviewing
4 those, that he took a drug called -- or what was
5 prescribed, a drug called Risperdal, I think it
6 was last summer in 2008.

7 Is that something you recall reviewing?

8 A. Yes, he was prescribed it. I'm not
9 sure he took it.

10 Q. Could you tell the Court, first of all,
11 what that drug is.

12 A. It's an antipsychotic medication. It's
13 Risperdal. And he also took antidepressants, or
14 at least was given antidepressants, Elavil as well
15 as Zoloft. And then he was given Risperdal. But
16 in the main, he didn't take medicines
17 consistently, and I'm not sure he took them, but
18 he may have taken the antidepressants.

19 Q. And from your review of the records,
20 first of all, he wasn't consistently taking them
21 anymore?

22 A. No, ma'am. But the issue goes to why
23 they would prescribe them.

24 Q. Correct. And could you tell from your
25 review why they were prescribed?

1 to believe people when they say what they say, and
2 because I think you can always determine whether
3 it's not truthful.

4 And so what happens is that often --
5 and not just in corrections, but I think in
6 psychiatry, particularly since mental health
7 professionals are so dependent upon the subjective
8 reporting of patients, i.e. or individuals, they
9 kind of start from that place.

10 And people, I think probably No. 1, get
11 treated unreasonably with too much medicine. But
12 No. 2, it's hard to arrive at a diagnosis, which
13 the thing that we do the least well in psychiatry
14 is diagnoses.

15 And early on, particularly when people
16 are reporting things that sound strange and
17 unusual, the best way to do it globally, as
18 Dr. Sombke said, is to use a basket that sort of
19 allows you to sort of say, at least I thought
20 about psychosis. So people put "psychosis NOS"
21 which is "not otherwise specified," which means
22 might be psychotic, and that needs to be
23 considered.

24 But I think those -- the reports that
25 are in the Department of Corrections records are

1 A. Well, yes. There's a number of
2 references in this Department of Corrections, you
3 know, where he says things like he's hearing
4 voices or things like that. And in that kind of
5 context, if you look at the records, it's just
6 given the nature of the business, No. 1 most
7 people aren't that sophisticated about that sort
8 of thing.

9 No. 2, he did see Dr. Ellison, who is
10 very sophisticated guy, who thought he might be
11 psychotic because he expressed so many paranoid
12 ideas. But even Scott, that is Dr. Ellison, who I
13 know very well, had very limited data and
14 information.

15 And he just basically -- what I think
16 the thing to do is, which I've always taught
17 people in those circumstances, I think you take
18 everything at face value. You tend to want to
19 believe everything that people are telling you.
20 And as time goes by, and you have more collateral
21 data, and it becomes apparent whether what they're
22 saying is reasonable and true, or whether it's
23 not.

24 But I'm inclined not only to assume
25 competency on the part of people, but I'm inclined

1 not unusual, and you see them with a lot of
2 inmates, and they turn out moderately accurate.
3 And the truth is in the -- he never really got any
4 kind of active treatment. He didn't really want
5 treatment. He didn't really -- he was never seen
6 as overtly mentally ill. And he didn't ever
7 require any kind any special kinds of approaches.

8 So, you know, it's not unusual to see
9 that in the records, but that's very superficial
10 data.

11 Q. And does that not change your opinion
12 about his competency back in 2008 when they tried
13 this case, or his competency today as you sit
14 here?

15 A. No, ma'am.

16 Q. I take it that Idaho Department of
17 Corrections mental health staff did not do any
18 kind of psychological testing that you reviewed in
19 your records to come to your opinion?

20 A. I assume they did that, and I spoke to
21 the social worker that I have known for so long.
22 She reviewed the mental health records, and she
23 indicated that the yard and the maximum facility,
24 and this and that, and she couldn't find anything.

25 Now, that doesn't actually mean that it

1 wasn't done, but she didn't know anything about
2 it. And when I talked to Dr. Ellison, and he
3 didn't know anything about it or he couldn't
4 remember, but he's new out there. And so it may
5 have been done, but I certainly don't know it.

6 Q. And it was not in the record that you
7 reviewed?

8 A. No, ma'am.

9 Q. All right. So with regard to
10 Dr. Sombke, you heard him talk today to the Court
11 and testify about his opinions. And you heard him
12 testify that he believed that Mr. Hawkins wanted
13 to be found competent.

14 Do you agree with that portion of
15 Dr. Sombke's testimony?

16 A. No, no entirely.

17 Q. Can you explain why not.

18 A. Well, Mr. Hawkins might be ambivalent
19 about it. But I think he likes -- he's an
20 obstructionist, and he thinks he likes to be the
21 center of attention. He likes to be on stage and
22 hear himself talk to convince others how smart he
23 is. He kind of enjoys these proceedings, I think.
24 And at the same time -- it's kind of like the
25 reporting of psychotic symptoms like in the

1 had to say with --

2 A. I think Dr. Sombke laid it out
3 perfectly well. I think the conclusions that he
4 came to with the limited amount of data that he
5 had, it's just kind of like you tend to believe
6 what people tell you.

7 And very often when we do 18-211
8 evaluations, when we don't have -- absent other
9 correlated data, we just sort of tend to recommend
10 commitment of people, and then you sort of
11 evaluate them and gather corollary data. So it's
12 probably always kind of -- it's hard to get people
13 into a set of circumstances, where you can get the
14 corollary data and observations.

15 One of the reasons that I didn't go
16 along with that, was that I had seen Mr. Hawkins
17 and was familiar with his case and observationally
18 and what not, so I just took it upon myself to do
19 what I would have done, or the staff would have
20 done, if he had been committed under 18-211 and
21 placed in the Ada County jail in the hospital
22 section.

23 So I just chose to do it first before
24 going along with Dr. Sombke. And so that's what I
25 did.

1 Department of Corrections, like in the yard or
2 somewhere like that.

3 One of the things that happens when
4 people report psychotic symptoms, it's a little
5 intimidating, and security officers and others
6 think, oh, gosh, this person may be crazy. And I
7 think part of his reporting, like in the
8 Department of Corrections is part of his social
9 adaptation. He kind of gets treated special if he
10 reports those symptoms.

11 Whether or not he is found competent or
12 not, you know, he may be ambivalent about it, but
13 he kind of enjoys all this back and forth that
14 he's been successful at making happen, as a result
15 of what I see is primarily manipulation. But I
16 think he probably would like to be found
17 non-competent, because he could prolong this.

18 And so, you know, other than the fact
19 that he might be ambivalent, but I wouldn't
20 include -- I mean, I wouldn't agree entirely with
21 Dr. Sombke. But, you know, I don't know. That's
22 just how I see it.

23 Q. And, again, from the testimony that you
24 heard from Dr. Sombke, is there anything else that
25 you disagree with? Or did you agree with what he

1 And then I think it all came into focus
2 when we got more collateral information data as to
3 two things -- with what was going on, really. If
4 that's helpful.

5 Q. That is helpful.

6 MS. BENNETTS: May I have a moment,
7 Your Honor?

8 THE COURT: You may.

9 MS. BENNETTS: Thank you, Dr. Estess. I
10 have no further questions. Thank you for your
11 time and effort.

12 THE COURT: Mr. Sutton, you may cross
13 examine.

14 EXAMINATION

15 BY MR. SUTTON:

16 Q. Good morning, Dr. Estess.

17 A. Good morning.

18 Q. If I were to say to you, that this
19 morning, as we are here today, that my client
20 wants to be found to be incompetent, would that
21 shock you?

22 A. No.

23 Q. And why would it not?

24 A. I think everything that I've said here
25

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1 today would indicate that he may have wanted to be
2 found competent; he may want to now, and he may
3 not have wanted to a week ago. And so ambivalence
4 means, you know, he could want to, and he could
5 not want to.

6 When I talked about his maudlin
7 conversation to his parents, I think part of
8 growing up is getting on with it and accepting the
9 responsibility of one's circumstances. And so I
10 think it's entirely possible that Mr. Hawkins may
11 be existentially, sort of, wanting to get on with
12 it. And that would be wanting to be found
13 competent. I mean, you know that's -- could be.

14 Q. That's speculation, of course?

15 A. Of course.

16 Q. When we spoke about Darcy earlier, I
17 know that you went into length about your
18 observations of her story, what she tells about
19 her children and the boys and their living
20 circumstances. There really hasn't been any
21 substantiation of her opinion or her narration to
22 you of what took place. As you said, you want to
23 believe what people tell you. That's what she
24 told me you.

25 You took it at face value, but there's

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1 the Delawyer report --

2 A. Yes.

3 Q. -- involving Darcy? Was there some
4 conflict in that report in its findings?

5 A. Very minimal, as far as I'm concerned.
6 I was impressed that she was able to relate to
7 Dr. Delawyer like she did in '06, because I think
8 she was such an abused person and so terrorized by
9 her relationship with Mr. Hawkins. So you know --
10 because she subsequently had almost two years of
11 treatment and probably still is. But I think she
12 did really very well.

13 But the consistency with respect to --
14 I was surprised that it was as consistent as what
15 I got from her.

16 Q. In regard to the letters from his two
17 older boys, when you reviewed those, did they
18 cause you any concern?

19 A. I haven't reviewed those letters.

20 Q. Thank you. What you have observed
21 regarding Mr. Hawkins, could these -- what you
22 see, how he presents, and the symptoms that you've
23 observed, and the conclusions that you have
24 derived, could they have been caused by a physical
25 injury?

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1 nothing in your independent investigation to
2 confirm that what she said was accurate?

3 A. Well, that's not entirely true. I've
4 interviewed hundreds if not thousands of people.
5 And you can tell when people talk about what
6 they're talking about, whether it seems legitimate
7 or not. Some people ring like three dollar bills,
8 and you can tell when you interview them.

9 The other thing is what people say if
10 you put it into the matrix of other data and
11 information. If it makes -- it makes more sense
12 if you have corollary data and information, like
13 the mother's conversation, like the -- the stuff
14 that he -- when he interacted when he was arrested
15 with the officers in the investigatory report.

16 If you take a look at what she said and
17 what occurred in the history you get from other
18 people, what she said takes on a degree of
19 legitimacy that is different than if I just had
20 had a single conversation with a different
21 individual, and I was just dependent on upon my
22 intuitive conversation and experience with respect
23 to interviews. So I had a good deal more data
24 than just my conversation with Darcy.

25 Q. Did you have an opportunity to review

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1 A. Not in my experience, no.

2 Q. Could they have been caused by a birth
3 defect?

4 A. No.

5 Q. Were you aware of a polygraph he took,
6 I believe, back in 19 -- excuse me, 2006?

7 A. Yes, I read it. I mean, I read the
8 report and looked at the information.

9 Q. Did that cause you any concern with
10 regard to your opinion here today?

11 A. Well, before even I talked to Darcy and
12 knew that he had bragged to his children and to
13 her that he had been able to fake a polygraph
14 before, and he knew how to handle that sort of
15 thing -- you know, I have seen guilty people that
16 passed polygraph tests. And so that's why it's
17 probably not admissible.

18 But you know, it didn't cause me any
19 concern, really. I don't place that much faith in
20 it, to be perfectly honestly with you, although I
21 know it is helpful.

22 Q. Were you aware of any EEG tests he took
23 back in the early 70's?

24 A. I don't know about the 70's, but I
25 believe he was certainly -- I can't remember if he

28 (Pages 109 to 112)

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1 had one. Because I know they mentioned he
2 seizures and things, which, of course, I don't
3 think he did.

4 Whether they had done any EEG at the
5 Department of Corrections or not, they mentioned
6 that. They had a lot of laboratory work, but I
7 didn't see a report, but they may have gotten one
8 done.

9 Or, you know, I think maybe I got one
10 when he was complaining of what he was complaining
11 of. I think we also got CT scan of his head, but
12 I couldn't find the report, and as well as an EEG
13 when he was in '06 and '07 when he was in the Ada
14 County jail.

15 Because, again, as it relates to
16 thoroughness, I thought we ought to work him up
17 neurologically. Just to the that extent, he had
18 no obvious neurological finding or physical, but
19 we did some laboratory work, and we did those
20 things.

21 Q. Okay. You had access to those?

22 A. Yes.

23 Q. And they were considered by you, in
24 terms of you presenting your opinion here before
25 the Court today?

1 A. Yes.

2 Q. Have you observed, during the course of
3 what appears to be your extensive review of the
4 file in this matter, any type of consistency that
5 would justify your observation that he's
6 delusional?

7 A. I don't have the observation that he's
8 delusional. So I haven't seen anything that would
9 allow me to think that he -- what's consistent
10 about him is his inconsistency, and him picking
11 and choosing where he presents what kind of
12 symptoms.

13 Like when he was interrogated by the
14 FBI, you know, when he was arrested, and he
15 indicated the reason he was engaging in bank
16 robberies was because his wife Darcy and his boys
17 needed to spend a lot of money, and they were
18 unreasonable, and they were economically draining
19 him, and so they just needed more money to supply
20 the family with money, because his wife and
21 children were unreasonable spenders.

22 Well, you know, there's a number of
23 stories like that about other things that are
24 scattered throughout his history. That is just
25 the old thing about, you know, if you tell the

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1 truth, you don't have to remember what you said.
2 He's told too many stories. And there's only one
3 thing that does that, so...

4 Q. You have no idea whether or not he is
5 taking any medications, which have been previously
6 prescribed to him?

7 A. I haven't prescribed him any
8 medication. He may be on something from the staff
9 at the county jail contemporarily, but I'm not
10 sure what it is. If he is -- I don't think he's
11 taking any psychotropic medication, no.

12 Q. So he's not on any drugs that would
13 limit his ability to participate in these
14 proceedings today, that you're aware of?

15 A. Not that I'm aware of.

16 Q. How long have you known Mr. Hawkins?

17 A. As I said, I believe I met him when he
18 was introduced in the Ada County jail. When he
19 was arrested, and within the -- I think within a
20 couple of months or something like that, when I
21 saw him the first time.

22 Q. That would have been 2006?

23 A. That's what I think, yeah -- or yes,
24 sir. I apologize.

25 Q. Have you observed any issues involving

1 a DSM4 Axis I with his personality?

2 A. I don't understand the question.

3 Q. Have you observed any other systems
4 that would impair him to be able to participate in
5 today's proceedings?

6 A. No.

7 Q. Have you ever testified on behalf of
8 the defense?

9 A. Many times.

10 Q. Do you believe it's possible that
11 another doctor with your credentials, with your
12 experience, and your skill set, could derive a
13 different opinion that perhaps he is impaired as
14 he sits here today?

15 A. Anybody who would draw that conclusion,
16 I think, would have to be willing to be dishonest.
17 I always say that anything is possible. It is
18 more than extremely unlikely that anybody with my
19 training and experience would come to the
20 conclusion any differently than Dr. Sombke and I
21 have.

22 You can buy testimony anywhere, but I
23 don't think this is as complicated a case as it
24 was when we didn't have all the information that
25 we have now. And competent people certainly

1 disagree with me, people that are every bit as
2 competent as me, and anything is possible.

3 But I think it is extremely unlikely
4 that anybody would come to any other conclusion
5 after they have all the data and information that
6 Dr. Sombke and I have.

7 Q. Okay. You've told us earlier that you
8 had visited at length with his mother and talked
9 at length with her mother?

10 A. Yes, sir.

11 Q. About her description of the facts in
12 this case?

13 A. No, not really the description of the
14 facts in this case. I mean, I talked to them
15 about growth and developmental issues and family
16 issues, not really --

17 Q. Do you think his parents, based upon
18 your discussions, were aware of some of the
19 activities of their son?

20 A. Oh, I'm sure they didn't know a lot of
21 about his activities. I'm sure.

22 Q. Did his parents ever relate to you
23 something about a conspiratorial plot taking place
24 against him?

25 A. No, the mother didn't tell me that. He

1 -- they didn't -- that was not -- I didn't
2 specifically ask her that. But -- and I'm sure he
3 may have had said some strange things to them in
4 the service of obfuscation.

5 Plus, quite honestly, I think he's a
6 legitimately paranoid character, which means that
7 there's a big difference between paranoid
8 personality and a paranoid delusion. And I really
9 think that it would be very reasonable to conclude
10 that he expresses paranoid ideas about what people
11 want to do to him, or what is going on due to him.

12 But that falls generally well within
13 the category of personality disorders, which --
14 and people often, with those kinds of
15 difficulties, express conspiratorial kinds of
16 things.

17 Q. And you saw nothing in your review of
18 the records which would not support your position
19 that he's competent as he sits here today?

20 A. That's correct. Well, I mean, you say
21 if you took it at face value some of the things in
22 the records, and you drew a different conclusion
23 because you have limited data, then, you know, of
24 course some of the things that are in the records
25 would -- if they were true, are strange.

1 However, taken collectively, I don't
2 think there's anything in the record that would
3 indicate that Mr. Hawkins is not competent to
4 proceed.

5 Q. As this question may be brought forth
6 in the future, do you have an approximation of how
7 much time you've spent on this case?

8 A. A lot more than I'm going to charge the
9 judge. So I'll probably charge him about ten
10 hours, and I won't charge him near what real
11 psychiatrists would charge him. But I've spent at
12 least three times that, but I would feel bad
13 charging the county that kind of money.

14 And since I don't need money, and I'll
15 just do what I do with the prosecutor and the
16 public defender, which I'll charge them, you know,
17 about ten hours.

18 Q. And it's fair to say that what you're
19 attempting to do here is to find the truth?

20 A. To be honest, I like people, and I like
21 inmates, and like to help people. I don't take
22 sides. I just want to try to be helpful.

23 I'm sure there's something decent about
24 Mr. Hawkins, or his wife would have never married
25 him. He just hides it real well.

1 MR. SUTTON: Thank you. No further
2 questions.

3 THE COURT: Redirect?

4 MS. BENNETTS: No thank you.

5 THE COURT: And Doctor, I have no additional
6 questions. Thank you, sir.

7 THE WITNESS: Thank you, sir.

8 THE COURT: Any additional witnesses?

9 MS. BENNETTS: No, Your Honor. Thank you.

10 THE COURT: The State rests?

11 MS. BENNETTS: Thanks, Your Honor.

12 THE COURT: Does the defense wish to present
13 evidence?

14 MR. SUTTON: At this junction, Your Honor --

15 THE COURT: And that's what I'm trying to
16 determine. You can go ahead and have a seat,
17 Dr. Estess.

18 And, Mr. Sutton, go ahead, sir. Did
19 you have evidence you wish to present?

20 MR. SUTTON: Yeah, we'd like the opportunity
21 to be able submit a written closing argument on
22 this motion.

23 THE COURT: Then these witnesses can be
24 excused?

25 MS. BENNETTS: Yes, Your Honor.

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1 **THE COURT:** So with that, can both sides
2 rest?

3 **MR. SUTTON:** Yes.

4 **THE COURT:** All right.

5 **MR. HAWKINS:** Can I proceed pro se? That's
6 what I want.

7 **THE COURT:** Well, right now, Mr. Hawkins,
8 we're in a competency proceeding, and the answer
9 to that is: Though there has been evidence
10 presented here that you are competent, I want to
11 focus on that at this point. And then if the
12 Court concludes you are competent, then we'll take
13 up this pro se representation.

14 Well, how much time do you need for
15 this written argument?

16 **MR. SUTTON:** Can we have ten days?

17 **MS. BENNETTS:** That's fine. Do you want
18 final CDs, Your Honor?

19 **THE COURT:** Yes, please.

20 **MS. BENNETTS:** Okay. All right.

21 **THE COURT:** November the -- today is the
22 12th?

23 **MS. BENNETTS:** Today is the 12th.

24 **THE COURT:** So I'll give you a weekend to
25 work on it. November the 22nd?

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1 **MR. SUTTON:** That would work, Your Honor.

2 **MS. BENNETTS:** That works for the State,
3 Your Honor.

4 **THE COURT:** 9:00. So when I receive that,
5 I'll take it under advisement, at that time, and
6 issue a written decision. All right.

7 Anything further then?

8 **MR. SUTTON:** Not at this time, Your Honor.

9 **MS. BENNETTS:** No, Your Honor. Thank you.

10 **THE COURT:** That'll be all.

11 (Proceedings concluded at 11:50 a.m.)

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1 **REPORTER'S CERTIFICATE**
2
3

4 I, Tiffany Z. Fisher, Court Reporter Pro
5 Tempore, County of Ada, State of Idaho, hereby
6 certify:

7 That I am the reporter who took the
8 proceedings had in the above-entitled action in
9 machine shorthand and thereafter the same was
10 reduced into typewriting under my direct
11 supervision; and

12 That the foregoing transcript contains a
13 full, true, and accurate record of the proceedings
14 had in the above and foregoing cause, which was
15 heard at Boise, Idaho.

16 IN WITNESS WHEREOF, I have hereunto set
17 my hand November 24, 2010.
18
19
20
21

22 Tiffany Z. Fisher, Court Reporter Pro Tempore
23 CSR No. SRT-983
24
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1 REPORTER'S CERTIFICATE

2
3 I, Tiffany Fisher, Court Reporter, State of Idaho,
4 does hereby certify:

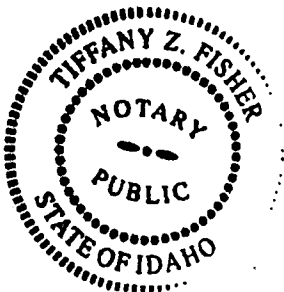
5 That I am the reporter who transcribed the proceedings
6 had in the above-entitled action in machine shorthand and
7 thereafter the same was reduced into typewriting under my direct
8 Supervision;

9 And That the foregoing transcript contains a
10 Full, true, and accurate record of the proceedings
11 Had in the above and foregoing cause.

12 IN WITNESS WHEREOF, I have hereunto set my hand.
13 This 24th day of November, 2010.

14
15
16
17
18 
19 Tiffany Fisher

20 Temp. CSR No. 983
21



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NO. _____ FILED _____
A.M. _____ P.M. **330**
MAY 29 2013
CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702

TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant Faron Raymond Hawkins

IN THE DISTRICT COURT FOR THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

FARON RAYMOND HAWKINS,

Defendant.

Case No. CR-FE-2007-0005

Judge Michael R. McLaughlin

NOTICE OF APPEARANCE

ORIGINAL

TO: ALL PARTIES, and their respective counsel of record:

YOU AND EACH OF YOU, PLEASE TAKE NOTICE, that Eric D. Fredericksen, of the law firm Brady Law, Chartered, hereby enters their appearance for the Defendant in all matters before the District Court for the above-entitled case.

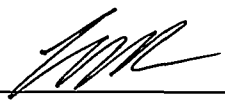
All further pleadings, notices, and correspondence of any kind filed hereafter in this case should be sent to:

Eric D. Fredericksen
Brady Law, Chartered
St. Mary's Crossing
2537 W. State St., Suite 200
Boise, ID 83702

5

DATED this 29th day of May, 2013.

BRADY LAW, CHARTERED

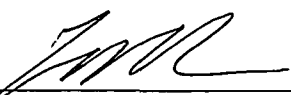

By: Eric D. Fredericksen,
Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of May, 2013, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Roger Bourne
Ada County Prosecuting Attorney's Office
200 W. Front Street, Room 3191
Boise, ID 83702
(Attorney for Plaintiff)

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Eric D. Fredericksen

Time	Speaker	Note
<u>4:32:42 PM</u>		CRFE07.5 State v. Faron Hawkins
<u>4:32:51 PM</u>	Court	Calls case. Erick Fredericksen for the deft. Roger Bourne and Jan Bennett for the State.
<u>4:33:34 PM</u>	Court	Mr. Odyssey is excused from the case.
<u>4:33:49 PM</u>	Court	Reviews the ile.
<u>4:36:30 PM</u>	Ms. Bennett	Response regarding the brief.
<u>4:36:38 PM</u>	Court	Addresses counsel.
<u>4:37:28 PM</u>	Mr. Fredericksen	Response - would like it set out for middle or late August for the hearing.
<u>4:37:49 PM</u>	Court	Addresses coiunsel - Dr. Estes or Dr. Sombke.
<u>4:37:59 PM</u>	Court	August 29, 2013 at 9:00 am and will reserve a day for the hearing.
<u>4:38:40 PM</u>	Court	Counsel are avaiable at that time.
<u>4:38:49 PM</u>	Court	Status by phone July 17, 2013 at 4:00 initiated by the Court. Counsel can appear if they would like.
<u>4:39:44 PM</u>	Court	Addresses counsel.
<u>4:40:08 PM</u>	Court	Dr. Estes and Dr. Sombke - will take judicial notice of those and will be made part of the record subject to tefense subpoenaing him - entitled to cross examination.
<u>4:40:51 PM</u>	Mr. Fredericksen	Response.
<u>4:41:00 PM</u>	Court	Response - subject to cross examination and hearing from defense expert.
<u>4:41:21 PM</u>	Court	Discussion between the Court and counsel.
<u>4:41:31 PM</u>	Court	Addresses the deft.
<u>4:41:46 PM</u>	End.	
<u>4:41:46 PM</u>		

JUN 05 2013

CHRISTOPHER D. RICH, Clerk
By **JOHN WEATHERBY**
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

FARON RAYMOND HAWKINS,

Defendant.

Case No. CR-FE-2007-000005

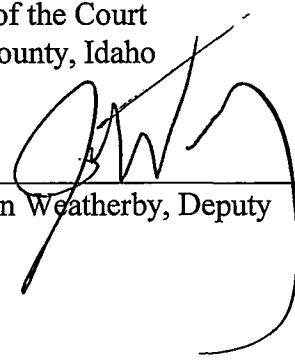
NOTICE OF HEARING

PLEASE TAKE NOTICE That the Honorable Michael McLaughlin, Senior District Judge, has set this matter for the following hearings at the Ada County Courthouse, 200 W. Front, Boise, Idaho:

TELEPHONIC STATUS CONFERENCE
HEARING

July 17, 2013 at 4:00 (Court to initiate)
August 29, 2013 at 9:00

Christopher D. Rich
Clerk of the Court
Ada County, Idaho

By: 
John Weatherby, Deputy

NOTICE OF HEARING

000091

CERTIFICATE OF MAILING

I hereby certify that on this 5 day of June, 2013, I mailed (served) a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTING ATTORNEY
ROGER BOURNE
JAN M. BENNETTS
INTERDEPARTMENTAL MAIL

ERIC D. FREDERICKSEN
BRADY LAW, CHARTERED
2537 W. STATE ST, STE 200
BOISE, ID 83702

CHRISTOPHER D. RICH
Clerk of the District Court
Ada County, Idaho


Deputy Clerk

189
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2/17

NO. 9
A.M. 9 P.M. 9

JUN 06 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant Faron Raymond Hawkins

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

FARON RAYMOND HAWKINS,

Defendant.

Case No. CR-FE-2007-0005

Judge Michael R. McLaughlin

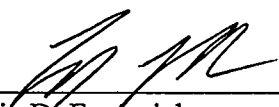
**MOTION TO DECLARE DEFENDANT
A NEEDY PERSON**

ORIGINAL

Defendant, Faron Raymond Hawkins, asks this Court, pursuant to I.C. §§ 19-851(c) and 19-852, to declare that he is a "needy person" for purposes of obtaining necessary services and facilities of representation in this case. This Motion is supported by Defendant's affidavit attached hereto.

DATED this day 5th of June, 2013.

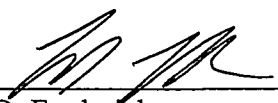
BRADY LAW, CHARTERED


By: Eric D. Fredericksen
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of June, 2013, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Roger Bourne	<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
Ada County Prosecuting Attorney's Office	<input type="checkbox"/>	Express Mail
Ada County Courthouse	<input type="checkbox"/>	Hand Delivery
200 W. Front Street, Room 3191	<input type="checkbox"/>	Facsimile Transmission
Boise, ID 83702	<input type="checkbox"/>	Federal Express
(Attorney for Plaintiff)	<input type="checkbox"/>	Electronic Mail



Eric D. Fredericksen

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant Faron Raymond Hawkins

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

FARON RAYMOND HAWKINS,

Defendant.

Case No. CR-FE-2007-0005

**AFFIDAVIT OF FARON RAYMOND
HAWKINS**

STATE OF IDAHO)
 : ss.
County of Ada)

Faron Raymond Hawkins, being first duly sworn upon oath, deposes and says that:

1. I am the Defendant in the above-entitled action. The information contained herein is based upon personal knowledge, and is true and correct to the best of my knowledge and belief.
2. For purposes of the direct appeal, I was deemed indigent and the State Appellate Public Defender was appointed to represent me.

3. My financial status has not changed since I was last deemed indigent for purposes of the direct appeal.

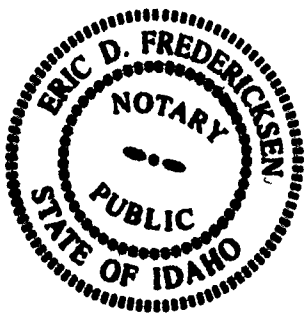
4. Further, your affiant sayeth not.

DATED this 4th day of ~~May~~^{June}, 2013.

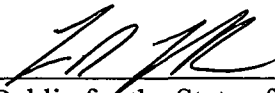


Raymond Faron Hawkins

SUBSCRIBED AND SWORN to before me this ~~29th~~^{4th} day of ~~May~~^{June}, 2013.



(SEAL)



Notary Public for the State of Idaho
Residing in Ada County, Idaho
My Commission Expires: 11/01/2018

189

any lyan

NO. _____ FILED 3:20
A.M. _____ P.M.

JUN 12 2013

CHRISTOPHER D. RICH, Clerk
By ELAINE TONG
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jan Bennetts
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2007-0000005
vs.)	
	)	SECOND ADDENDUM TO
FARON RAYMOND HAWKINS,	)	DISCOVERY RESPONSE TO
	)	COURT
Defendant.)	
)	
_____)	

COMES NOW, Roger Bourne and/or Jan Bennetts, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted an Addendum to Response to Discovery. The discovery items included in this addendum were previously provided and/or made available to the defendant and/or his counsel of record on September 24, 2007.

RESPECTFULLY SUBMITTED this 12th day of June 2013.

GREG H. BOWER
Ada County Prosecuting Attorney



Jan Bennetts
Deputy Prosecuting Attorney

57

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>4:32:10 PM</u>		On Record
<u>4:32:21 PM</u>		Jan Bennetts present for the State; Edward Odessey present; Eric Frederickson present with client Mr. Hawkins present in-custody
<u>4:32:25 PM</u>	Judge	We don't have a court reporter, the proceedings will be recorded, any objection to proceeding
<u>4:32:44 PM</u>	Ms. Bennetts	No objection
<u>4:32:50 PM</u>	Mr. Frederick sen	No Objection
<u>4:32:55 PM</u>	Judge	Motion to declare the defendant a needy person, want to understand the scope. Does the state have any basis to challenge?
<u>4:33:17 PM</u>	Ms. Bennetts	No your honor
<u>4:33:21 PM</u>	Judge	I wanted to make sure the scope was to obtain services and facilities, Mr. Frederickson what were you referring to?
<u>4:33:44 PM</u>	Mr. Frederick sen	Want to obtain an expert witness for the competency hearing
<u>4:33:55 PM</u>	Judge	Do you have an idea what sort of cost this will involve? If he is going to get services there is no question and expert would be needed on both sides
<u>4:34:22 PM</u>	Mr. Frederick sen	No idea on costs. Trying to find an expert that is not already connected with the matter. I don't have a number
<u>4:34:43 PM</u>	Judge	Excuses Mr. Odessey. Lets hear from the state
<u>4:35:02 PM</u>	Ms. Bennetts	I don't object, I believe it is appropriate. I think it appropriate for the court to review once the is a cost
<u>4:35:24 PM</u>	Judge	I will find that Mr. Hawkins is a needy person in need of services, hiring an expert witness. I will sign the order with today's date. We have a status conference in July but if you want to set up another time.
<u>4:36:11 PM</u>	Mr. Frederick sen	Would have more in a could weeks
<u>4:36:42 PM</u>	Judge	Lets set this for a status hearing at 4pm on 7-3-13. We will be in recess
<u>4:37:11 PM</u>		Off Record

JUN 17 2013

CHRISTOPHER D. RICH, Clerk
By AMY LYCAN
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

RECEIVED
JUN 06 2013
Ada County Clerk

Attorneys for Defendant Faron Raymond Hawkins

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

FARON RAYMOND HAWKINS,

Defendant.

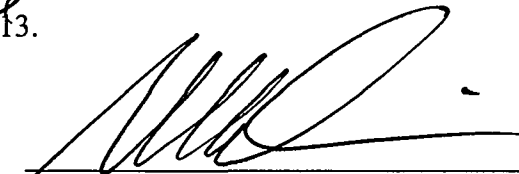
Case No. CR-FE-2007-0005

Judge Michael R. McLaughlin

**ORDER GRANTING MOTION
TO DECLARE DEFENDANT
A NEEDY PERSON**

The Court, having considered Defendant's Motion, pursuant to I.C. §§ 19-851(c) and 19-852, to declare that he is a "needy person" for purposes of obtaining necessary services and facilities of representation in this case, finds he is a needy person and eligible for such services at county expense. Counsel for Defendant shall direct any specific requests for services to this Court for prior approval. Any specific request may be made on an ex parte basis with the moving papers and orders to be sealed.

DATED this day 17 of May, 2013.



Honorable Michael R. McLaughlin
District Judge

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the ____ day of May, 2013, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Roger Bourne	<input type="checkbox"/>	U.S. Mail, Postage Prepaid
Ada County Prosecuting Attorney's Office	<input type="checkbox"/>	Express Mail
Ada County Courthouse	<input type="checkbox"/>	Hand Delivery
200 W. Front Street, Room 3191	<input type="checkbox"/>	Facsimile Transmission
Boise, ID 83702	<input type="checkbox"/>	Federal Express
<i>(Attorney for Plaintiff)</i>	<input type="checkbox"/>	Electronic Mail

Eric D. Fredericksen	<input type="checkbox"/>	U.S. Mail, Postage Prepaid
BRADY LAW, CHARTERED	<input type="checkbox"/>	Express Mail
St. Mary's Crossing	<input type="checkbox"/>	Hand Delivery
2537 W. State Street, Suite 200	<input type="checkbox"/>	Facsimile Transmission
Boise, ID 83702	<input type="checkbox"/>	Federal Express
<i>(Attorney for Defendant)</i>	<input type="checkbox"/>	Electronic Mail

JUN 28 2013

CHRISTOPHER D. RICH, Clerk
By ELAINE TONG
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702

TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant, Faron Raymond Hawkins

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

FARON RAYMOND HAWKINS,

Defendant.

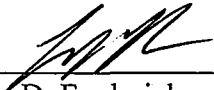
Case No.: CR-FE-2007-0005
Judge Michael R. McLaughlin

**MOTION TO WITHDRAW AS COUNSEL
OF RECORD**

COMES NOW, the above named Defendant, by and through his attorneys of record, and pursuant to Rule 44.1 Idaho Criminal Rules, hereby moves this Court for an Order granting them leave to withdraw as attorneys of record for Faron Raymond Hawkins, the above named Defendant. The reasons for withdrawing as counsel of record as set forth in the attached Affidavit of Eric D. Fredericksen.

DATED this day 28th of June, 2013.

BRADY LAW, CHARTERED

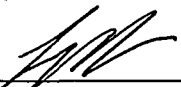


By: Eric D. Fredericksen,
Attorneys for Defendant
Faron Raymond Hawkins

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 28th day of June, 2013, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jan Bennetts	<input type="checkbox"/>	U.S. Mail, Postage Prepaid
Ada County Prosecuting Attorney's Office	<input type="checkbox"/>	Express Mail
Ada County Courthouse	<input checked="" type="checkbox"/>	Hand Delivery
200 W. Front Street, Room 3191	<input checked="" type="checkbox"/>	Facsimile Transmission
Boise, ID 83702	<input type="checkbox"/>	Federal Express
Facsimile: (208) 287 – 7719	<input type="checkbox"/>	Electronic Mail
<i>(Attorneys for Plaintiff)</i>		



Eric D. Fredericksen

NO. _____
FILED 3:30
A.M. _____ P.M. _____

JUN 28 2013

CHRISTOPHER D. RICH, Clerk
By ELAINE TONG
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702

TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant, Faron Raymond Hawkins

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

FARON RAYMOND HAWKINS,

Defendant.

Case No.: CR-FE-2007-0005
Judge Michael R. McLaughlin

**AFFIDAVIT OF ERIC D.
FREDERICKSEN**

Eric D. Fredericksen, being first duly sworn upon oath, deposes and says that:

1. I am one of the attorneys for the Defendant in the above-entitled action. The information contained herein is based upon personal knowledge, and is true and correct to the best of my knowledge and belief;
2. Your affiant was retained by Mr. Hawkins on May 29, 2013;
3. As of the date of this Affidavit, your affiant has not receive any payment from Mr. Hawkins;

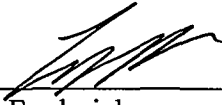
AFFIDAVIT OF ERIC D. FREDERICKSEN - Page 1
1271.0001

ORIGINAL
000103

4. For reasons your affiant cannot disclose, Mr. Hawkins desires to move forward in this case without the representation of your affiant.

5. This Motion it made in good faith and is not intended to delay the administration of the criminal case.

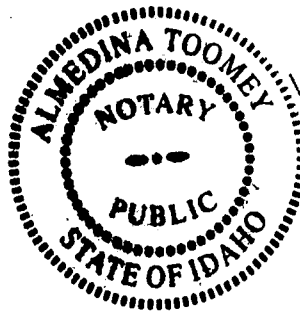
DATED this 28th day of June, 2013.

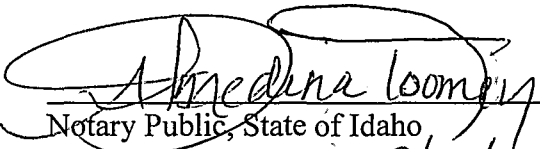

Eric D. Fredericksen,
Attorneys for Defendant
Faron Raymond Hawkins

STATE OF IDAHO)
): ss.
County of Ada)

SUBSCRIBED AND SWORN to before me this 28th day of June, 2013.

(SEAL)

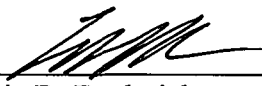



Notary Public, State of Idaho
My Commission Expires 8/29/2013

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 28th day of June, 2013, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jan Bennetts	<input type="checkbox"/>	U.S. Mail, Postage Prepaid
Ada County Prosecuting Attorney's Office	<input type="checkbox"/>	Express Mail
Ada County Courthouse	<input checked="" type="checkbox"/>	Hand Delivery
200 W. Front Street, Room 3191	<input checked="" type="checkbox"/>	Facsimile Transmission
Boise, ID 83702	<input type="checkbox"/>	Federal Express
Facsimile: (208) 287 – 7719	<input type="checkbox"/>	Electronic Mail
<i>(Attorneys for Plaintiff)</i>		



Eric D. Fredericksen

Time	Speaker	Note
04:03:31 PM	.	
04:03:33 PM		St. v. Faron Hawkins CRFE07-00005 Status Hearing
04:03:48 PM		Def. present in custody
04:03:52 PM	Counsel	Bourne/ Fredericksen
04:04:01 PM	Ct	Calls case and reviews.
04:06:07 PM	Frederickson	Responds, has filed a Motion to Withdraw.
04:06:38 PM		Recess to review Motion and Affidavit
04:06:47 PM	Ct	Reviewed the Motion and Affidavit re: Motion to Withdraw
04:07:29 PM	Bourne	Has seen
04:07:33 PM	Hawkins	Has not seen (Mr. Christensen provides copies)
04:08:05 PM	Bourne	No position on motion
04:08:21 PM	Frederickson	Def has received verbal notice, actual copy still in the mail
04:08:39 PM	Hawkins	concur
04:09:37 PM	Ct	Reiterates the Motion/affidavit, inquires of Mr. Hawkins
04:10:02 PM	Hawkins	will proceed pro-se.
04:10:19 PM	Ct	Responds.
04:11:25 PM	Hawkins	Responds. Does not want PD appointed even as standby counsel
04:12:37 PM	Ct	Q. Mr. Hawkins on competency to proceed pro-se
04:23:22 PM	Ct	Q. Mr. Bourne
04:24:37 PM	Ct	Q. Mr. Hawkins further
04:29:47 PM	Frederickson	Comments further
04:30:05 PM	Ct	Reviews standards on granting motions to withdraw.
04:34:09 PM	Ct	Finds Good cause to allow to withdraw, submit order.
04:34:22 PM	Ct	Appoints PD as "standby counsel", Review hearing 7/17/13 at 4.
04:35:41 PM	Hawkins	Has Response to States Motion to take Judicial Notice.
04:37:13 PM	Ct	Will have clerk file.
04:38:13 PM	Ct	if have motions to file, do properly

Faron R Hawkins
Ada County Jail
7210 Barnsten
Boise Id 83704

NO. _____
A.M. _____ FILED P.M. 4:50

JUL 03 2013

CHRISTOPHER D. RICH, Clerk
By INGA JOHNSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v

Faron R Hawkins
Defendant

Case No. CR-FE-2008-5

Motion to be transported and housed at
a Jail outside of Ada and Canyon Counties,
And
Order to be removed from Ada County

Comes Now Defendant, Faron R Hawkins, Pro Se, and motions this Court for an Order
to remove him from Ada County do to harassment and reckless endangerment and
medical reasons.

1. Defendant is currently being punished for giving access to the law library and blocking his legal mail. Defendant is denied all privileges now for 37 days for being denied and giving his court rights.
2. Defendant is harassed, Deputy Hudson stole his coffee creamer and said "get all the statements you want, it will do you no good" Deputy Branch blocked his legal mail 5-31-13
3. Defendant housed in a side chute, under protective custody do to giving testimony against a ex-ada county deputy. is never supposed to have his door open while other inmates doors are open, this is even in policy and procedure of the jail. Defendant has his door opened by central control with no deputies around, exposing him to other inmates that do to jail staff know he gave testimony, this has been done numerous times, documented in kite and grievance. This places defendant in a hostile environment that allows staff to open his door to cause inmate on inmate retaliation.
4. Defendant, being forced to be black boxed, belly chained, shackled at all times out of his cell for 27 months, even for exercise, has developed edema, gout, and high blood pressure, chest pain. December 2012, his blood pressure was checked at once a year, it read 210 over 98, twice, then they changed arms, 186 over 94, so they took that. Said they would recheck but never did. He is in serious need of dental, which has been grievance but denied.

5. Deputies have been told about Robert Hall, ex Ada County deputy and defendant's testimony. Deputies have been given a copy of defendant's presentence investigation where Baume and Bennetts fabricated evidence, statements of child abuse, starving children, beating children, which has caused a hostile environment. Defendant has never been given a copy, but been told by his lawyer that the things deputies have said to defendant are in the presentence report that this court never gave the defendant at anytime including required prior to sentencing.

This creates ongoing mental anguish as defendant is slandered, with clear lies continually by the Ada County Prosecutors office Baume, Bennetts, as they did in Nov. 12th zero hearing.

6. Defendant sent a Kite to deputies on 6-16-13 stating he was concerned that his cell would be searched, documents read that contained proof Roger Baume and Jan Bennetts fabricated documents. On 6-17-13 the very next day, defendant was brought to court unexpectedly, his cell was searched, coffee creamer taken, written up for having an empty container, took legal documents, written up again when he demanded his coffee creamer back, denied a review, denied all grievances for 7 days so he could not appeal as required on grievance form, then written up again for giving access to law library. Three write ups in a week, allowing them to write defendant up for having 3 write ups in a 30 day period, giving him a 4th write up, all loss of privileges, for 37 days on top of the 14 days, almost seven weeks no phone, commissary, exercise time taken, books, magazines taken, commissary food items taken will be no good in 40 days.

This is harassment! Defendant has grievances, Kites, to prove it. Inmates have even called his lawyer telling him of harassment by staff that he saw happen to defendant.

Do to denied of review, to appeal these actions, as staff finally gave defendant grievances to appeal, but then he is denied because "you only have seven days to appeal" shows malice.

Defendant asks to be moved to another jail do to the abuse, which Ada County continues to recklessly endanger his physical and mental state without review or remedy.

Dated this 2nd day of July 2013

FR Hall
Frank Hallen

Farren R Hawkins
Ada County Jail
7210 Bernster
Dance Id 83704

NO. _____ FILED _____
A.M. _____ P.M. 4:50

JUL 03 2013

CHRISTOPHER D. RICH, Clerk
By INGA JOHNSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v

Farren R Hawkins
Defendant

Case No. ~~83704~~ CR-FE-2007-5

Motion for Release to House Arrest
for medical and security reasons,
And

until Court Reviews up Subject matter jurisdiction

Comes Now Defendant, Farren R Hawkins, Pro Se, moves this court to:

1. Place ankle monitor on defendant, released to home arrest in ada county
2. Allow for movement only to medical visits court approved.
3. This motion in support of motion for removal from Ada County Jail do to security risk's endangerment.
4. This motion in support of motion to dismiss as to lack of Subject matter jurisdiction
5. This court has been motioned to take judicial notice of the case file, so it knows of the fraud by Ada County.

This motion is for good cause, to stop the harassment, the continual physical and mental, to grant immediate relief from unlawful custody of almost seven years of bad faith action by Ada County, and the fact the Prosecutor has fabricated numerous documents, evidence that this court has fraudulently ruled upon deny in defendant his constitutional rights, and the fact Roger Barne and Jay Bennett's have extreme control over the Ada County Jail, to exercise punishment, and place defendant in danger do to fraudulent statements and expose defendant to inmate on inmate retaliation.

Dated this 2nd day of July, 2013

FRH
Farren R Hawkins

Faron R Hawkins
Ada County Jail
7210 Barrister
Boise Idaho 83704

NO. _____
A.M. _____ FILED P.M. 4:50

JUL 03 2013

CHRISTOPHER D. RICH, Clerk
By INGA JOHNSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho

Plaintiff

VS

Faron R Hawkins

Defendant

Case No. CR-FE-2007-5

Motion to Dismiss

Rule 48 I.C.R.

Comes Now Faron R Hawkins, Defendant, Pro Se, and moves this court as to the following:

For good cause showing under I.C.R. 48 the defendant moves for dismissal

1. For unnecessary delay in presenting charge to Grand Jury, Bourne's initial charge by information then after defendant refused to waive preliminary 5 times moved for Indictment after 4 months, plus two weeks
2. For failing to bring defendant to trial in 180 day quick and speedy as defendant was arraigned August 28th 2006 and as of March 10th 2007 defendant had not waived quick and speedy trial. Denying defendant his constitutional right.
3. For Prosecutorial misconduct, misrepresentation, fraud, perjury, with intentional delay and harassment, denial of defendant's constitutional rights, on the State's attempt to gain an unfairly prejudicial advantage in prosecution and sentencing.
4. For any other reason the court concludes and for effective administration of court business.

Defendant asks for the above to be set for oral argument at the earliest.

Dated this 29th day of June 2013

Faron R Hawkins

Faron R Hawkins

000110

NO
A.M.

FILED
P.M. 4:50

JUL 03 2013

CHRISTOPHER D. RICH, Clerk
By INGA JOHNSON
DEPUTY

Farou R. Hawkins
Ada County Jail
7210 Barnister
Boise Idaho 83704

IN THE DISTRICT COURT OF THE Fourth JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho

Plaintiff

v

Farou R. Hawkins

Defendant

Case No CR-FE-2007-5

Motion to Strike

Competency Hearing and Rulings For
Prosecutorial Misconduct and Fraud

Comes Now Farou R. Hawkins, Defendant, Pro Se and Moves the Court as follows:

1. Roger Bourne and Jan Bennetts knowingly, willfully, deliberately, solicited false testimony, perjured upon the Court record, admitted exhibits, evidence that is directly refuted as a lie by the States own discovery and evidence in the above case. This proves malicious Prosecutorial Misconduct, fraud, criminal code violations 18-3201, 18-3203, other...
2. Roger Bourne and Jan Bennetts, using their own words, evidence, exhibits, placing such before the court as fact, did in fact know by way of the evidence they themselves manufactured, produced, that their argument, was a lie. Did knowingly admit perjured testimony and fraudulent misrepresentation of facts and evidence.
3. This motion is for good cause do to the Supporting motions to take Judicial notice of States discovery in CR-FE-2007-5, M0600893, CY-CP-0612231, #38532, November 12th 2010 hearing transcript, November 22nd 2010 closing arguments by the State, States Motion to take Judicial Notice, this Courts statement on the record in 2007 requesting "everything" in Bourne's CR-FE-2007-5 case file, this court on the record stating it had reviewed, read, entire case, April 1st 2011, State is on record that this Court has made statements on record as to "observations" of the defendant throughout the entire case, and all current defense motions, Notices.
Set for oral argument, with notice, so defense can call witnesses to testify.
Dated this 29th day of June 2013

Farou R. Hawkins

000111

Faron R. Hawkins
Ada County Jail
7210 Barnster
Base ID 83704

NO. _____
FILED _____
A.M. _____ P.M. 4:50

JUL 03 2013

CHRISTOPHER D. RICH, Clerk
By INGA JOHNSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff
v.
Faron R. Hawkins
Defendant

Case No. CR-FE-2007-5
Motion to take Judicial Notice of Prior record and
Motion to take Judicial Notice that this
Court, Judge Michael McLaughlin will be called
as a witness in the upcoming August 29th 2013
hearing do to the fact he made himself a
witness in the above case by making statements
on the record as to the defendant in prior proceedings
as to his observations and opinions regarding the
defendants psychological, mental, abilities and behavior.

Comes now Faron R. Hawkins, defendant, Pro Se, and gives Notice to the Court to
take Judicial Notice of all Prior record, Comments, statements, observations of
the Court in this matter.

1. This court is on record of itself and by the statements of the states prosecution
that the Court has arrived at opinion, observations, ability, of the defendant throughout
the above case, and has rendered opinion regarding such. This makes, and the Court
makes itself a witness for the defense in the above matter.
2. The court, through its statements on official court record has made itself a
defense witness under the 6th Amendment of the USA and requiring due process
under the 5th and 14th Amendments.

Since this creates a serious conflict with the Court, the defense Motions Judicial Notice
Dated this 29th day of June 2013

Faron R. Hawkins
Faron R. Hawkins

000112

Faron R Hawkins
Ada County Jail
7215 Barrister
Base Id 83704

NO. _____
A.M. _____ P.M. 4:50
FILED
JUL 03 2013
CHRISTOPHER D. RICH, Clerk
By INGA JOHNSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v
Faron R Hawkins
Defendant

Case No. CR-FE-2007-5

Motion for the Court to take Judicial Notice
of the Jan 7th to 11th 2008 Trial transcripts
Motions, proceedings, as to the fact the Prosecutions,
Counties direct actions caused the defendant to be
denied all of his witnesses at trial as admitted to
in Roger Bourmes letter dated Jan 24th 2008
that the Subpoenas were stopped by Ada County
Sheriff's dept by way of Ada County Prosecutors office.
This unfairly prejudiced the defendant, denied him
a fair trial and is a fundamental Constitutional
violation of due process under 5th & 14th Amendments.

And

Motion to Dismiss Indictment due to USCA violation.

Counsel Now Faron R Hawkins, defendant Pro Se, and motions this court to take Judicial
Notice of the defendants trial transcripts, proceedings, from Jan 7th to 11th 2008 and
Letter from Roger Bourme and Ed Adesey admitting it was the States, Counties error,
or purposeful act of causing all the defense witness to be blocked by deliberately not
serving the defendants Subpoenas that were properly made, issued, provided to Ada County
Sheriff's for Service. Joe Terteling, Roger Bourmes friend, was on that list that was blocked,

1. the Court refused to grant a continuance motioned by the defendant, admonishing the defendant
saying, "did you get them back", "did you receive proof of service", placing the blame
upon the defendant, incorrectly, as proven by Roger Bourmes letter. This is a guaranteed
fundamental right under U.S.C.A. 6th and 14th due process, unfairly prejudicing the defendant

Motion this Court set for oral argument or directly dismiss indictment

Dated this 29th day of June, 2013

000113
Faron R Hawkins

Faron R Hawkins

Ada County Jail

7210 Barnister

Boise ID 83704

NO. _____ FILED 4:50
A.M. _____ P.M.

JUL 03 2013

CHRISTOPHER D. RICH, Clerk
By INGA JOHNSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho

Plaintiff

VS

Faron R. Hawkins

Defendant

Case No. CR FE 2007-5


Motion to Dismiss for abuse of discretion
by the Courts failure to provide counsel
after November 12th 2010 Competency hearing.

Comes Now Defendant, Faron R Hawkins, Pro Se as to the following:

1. John Eric Sutton stated to Idaho Bar in complaint that "he only represented Hawkins on Nov 12th 2010, he was not hired to represent Hawkins at any further proceedings past November 12th 2010. Therefore Hawkins was without counsel for closing arguments, for appeal, to submit rebuttal testimony, to argue retro competency, to argue appeal, or to appeal Courts final ruling, or to obtain a doctor to counter states evidence. Unfairly prejudicing the defendant in denial of U.S.C.A. & Federal law.
2. McLaughlin further denied defendant to proceed pro se after November 12th 2010 hearing on record.
3. McLaughlin released Sutton, allowing him to withdraw.
4. McLaughlin failed a required duty to Foretta Hawkins prior to proceeding pro se in 2010, 2011, and as of June 29th 2013 still has not met Foretta requirements. In Foretta, the Courts failure to grant Foretta or meet requirements, is a U.S.C.A. violation of due process requiring a new trial or reversal, or dismissal as abuse of discretion, Courts failure.

Request this court set for oral argument with notice, or dismiss indictment.

Dated this 29th day of June 2013


Faron R Hawkins

Faron R Hawkins
Ada County Jail
7210 Barnster
Boise Id 83704

JUL 03 2013

CHRISTOPHER D. RICH, Clerk
BLINGA JOHNSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v

Faron R Hawkins
Defendant

Case No. CL-FE-2007-5

Motion to Dismiss for lack of Subject
matter Jurisdiction. as Defense alleges
the Indictment is Invalid.

Come now Faron R Hawkins, Pro se, defendant, in the following Motion to dismiss.

1. State v. Dalling, "Court out of its term, not properly seated with authority"
2. Defense has only seen Orders by the Court Seating a Grand Jury out of term.
3. Defense has only seen order seating Grand Jury without a Judge's Signature
4. Eric Fredericksen has tried to gain a copy of the order for approx a month without one being provided to him. Defense believes indictment is invalid, or falsified

5. The defense believes the Grand Jury in his case was not properly with power to issue an indictment as the term of service appears to have expired or in the other order it is without a signature. This leaves a serious question as to this Court having jurisdiction "Court has a sua sponte duty to ensure it has subject matter jurisdiction"

"State v. Kavaratz 139 Idaho 482 483 86 P3d 1083, 1084"

Since the defense has only seen invalid indictments do to Grand Jurys not properly impaneled, and the fact the prosecution has clearly falsified evidence, the defense requires the court to prove it has subject matter jurisdiction by producing a lawfully, undisturbed document.

Set for oral argument or dismiss on Courts authority Rule 48 ICR.

Dated this 29th Day of June 2013

H2Am/16

JUL 03 2013

CHRISTOPHER D. RICH, Clerk
By INGA JOHNSON
DEPUTY

Faron R. Hawkins
Ada County Jail
7210 Barrister
Boise ID 83704

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff
v.
Faron R. Hawkins
Defendant

Case No. CR-FE-2007-5

Case No. M0600093

Motion for the Court to take Judicial Notice of
Prior Proceedings and this Court's failure to Grant
the defendant a Quick and Speedy Trial from
August 29th 2006 to Feb 25th 2007 a due process
violation of the United States Constitution causing this
Court to lack Subject Matter Jurisdiction and
requiring dismissal of the indictment as a Sua
Sponte duty of the Court to insure it has jurisdiction.

Comes Now Faron R. Hawkins, defendant, Pro Se, and motions this Court to take
Judicial notice as to the following:

1. All prior proceedings from August 29th 2006 to February 26th 2007.
2. Defendant's Arraignment August 29th 2006 to February 25th 2007 when 180 days
had expired, creating a fundamental Substantive Constitutional violation requiring
the dismissal of the indictment and case.
3. Defendant never waived his quick and speedy right during that period or before.
4. Court's failure to provide the defendant a quick and Speedy trial unfairly prejudiced
the defendant, causing his loss of liberty, due process guarantees by the U.S.C.A.
14th, and subsequent additional violations under the 5th, 8th, 6th, for the failure.
5. The defendant would have never been found guilty if it were not for this Court, and the
States direct denial of the defendants Constitutional rights.

"Court has a sua Sponte duty to insure it has Subject Matter Jurisdiction"... State v. Kaya 139 Idaho 482, 483, 80 P.3d 1083-4
Motion for oral argument or direct dismissal of the indictment within 14 days.

Dated this 29th day of June 2013

Faron R. Hawkins

000116

Faron R Hawkins
Ada County Jail
7210 Barnister
Borset Id 83704

NO. _____
FILED _____
A.M. _____ P.M. 4:50

JUL-03-2013

CHRISTOPHER D. RICH, Clerk
By INGA JOHNSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

Case No. CR-FE-2007-5

v.
Faron R Hawkins
Defendant

Motion to Dismiss Indictment for Intentional
Prosecutorial Misconduct, Fraud, Falsifying, Altering
Official Government, Public record, documents, manufacturing
Soliciting Perjured testimony, knowingly, deliberately in
bad faith and malice.

Comes now Faron R. Hawkins, defendant Pro se, Moves this court to dismiss the indictment as
to irreparable damage to the case file, discovery, and the evidence in CR-FE-2007-5, Motion 93,
and the malicious action against the defendant, denial of all of his state and federally protected
constitutional rights, deliberate, intentional fraud perpetrated on the courts and the defendant.

1 Roger Bourne and Jan Bennett's intentionally altered, falsified, suppressed Harawa official record of discovery
and evidence in the above case to obtain a fraudulent ruling to defraud the defendant and the Idaho courts,
They intentionally altered, falsified and suppressed:

A. 520060700, 520060701, 520060701(A), 520060701(B), 520060701(C), 520060702, 520060703,

Audio Cd's of Interviews with Darcy Bervik talking about she knew Hawkins used to work for CIA for
over 15 (fifteen) years of their time together. since 1991, names Nigel, Kenny, Stephanie etc. in phone plans,
trucks, and that Hawkins would never hurt the children, would not even speak them, did not believe in it.

B. Typed interview, Oregon State Police Lon Rosenbach, Darcy talks about knowing about Hawkins and CIA
most of the time with Hawkins from about 1991, some 15 years, names names, planes, vehicles, CIA, DIA,

C. FBI report 12-15-06 Colorado, SA Scott Mace, again CIA, Nigel, government, 15 years or more.

Dr George Colley retired FBI agent, FBI report, phone conversation with Hawkins, CIA mentioned,
Colley telling Hawkins not to talk about that, he did not want it discussed because they were recorded.
Several calls between Colley and Hawkins through 2005-2006,

All of these were given to Eric Fridrickson June 2013, yet Bourne and Bennett's falsified, altered

000117

there existence from November 12th 2010 to present. Bourne and Bennett issued it in 2007 discovery in CP-FE-2007-5. In Nov. 12th 2010 hearing and all subsequent proceedings they fraudulently fabricate, alter, suppress that it existed. This evidence proves they committed fraud because;

E. In 2009 and 2010 Attorney Dennis Benjamin received discovery from Bourne and Bennett and was given all of Danny's statements, audios, FBI reports about CIA, 15 years, never hurt or even spanked his children. He used it in his 2009 appeal and had prepared to argue the Nov. 12th 2010 hearing with it.

2. This proves this evidence was present in 2006, 2007, 2008, 2009, 2010 up to two days before Nov. 12th 2010 hearing, then Bourne and Bennett altered it, falsified it, suppressed it, to purposely commit fraud, to gain an unfairly prejudicial advantage over the defendant and defraud the Idaho Court system with false record.

Bourne and Bennett's deliberately, intentionally removed, altered, suppressed, falsified official government record, then gave it to Dr. Estes, Dr. Sample as factual to solicit their perjured testimony, creating a knowing fraudulent record before the court, manufacturing said record to gain a fraudulent ruling, misusing taxpayer funds, denying defendant his constitutional rights while knowingly violating state and Federal criminal codes, causing delay, harassment, slander, and a fair trial that the Idaho Court of Appeals had ordered them to give. Roger Bourne and Tom Bennett talk it beyond this by arguing and asking questions of Dr. Estes, and Dr. Sample, knowing all along the CIA was not there because they had removed it.

Example: Nov. 12th 2010 Transcript.

page 30, line 15 Bennett's asked why Sample's opinion has changed, line 25 being delusional about CIA, page 31 line 1-16 CIA, DIA page 33 line 18-25 CIA Government, page 34 line 8-13, Again no mention of CIA, DIA page 83 line 19-21 Bennett's asks "was there any talk of Nike and CIA and things like that" Sample said "No, nothing." Many other references. To ask such a question, knowing Bennett's and Bourne falsified, altered, suppressed its existence to create a "new official record" to be able to appeal to the Idaho Supreme Court, is the ultimate in deceit, to be so fake, lacking any moral character to defraud everyone, courts, doctors, defendant. Bourne and Bennett's openly, habitually lied, put witnesses on the stand under oath to purposely lie. Bourne and Bennett's have absolutely no credibility.

In review of the below case, in comparison, Bourne and Bennett's actions are extremely worse,

United States v. Brown 9th Circuit No. 91-55149 "Held that prosecutors misconduct in knowingly introducing and relying on false evidence requires petitioner's conviction overturned" 951 F.2d, 1011 "Prosecutors actions in this case are intolerable. Possessed with knowledge that destroyed her theory of the case, the prosecutor had a duty not to mislead the jury. In stead she kept the facts secret on the face of a long standing rule of constitutional stature requiring disclosure and then presented testimony in such a way as to suggest the opposite of what she alone knew to be true... such conduct perverts the adversarial system and endangers its ability to produce just results. In response to the threat such misconduct poses to the rule of law, the constitution requires such convictions to be overturned."

Unlike Brown, Bourne and Bennett's intentionally, maliciously, deliberately "photo shopped" the official government document of CR-FE-2007-5, they generally falsified, altered, suppressed their own discovery the previously issued. Then in an elaborate scheme asked repeated questions to where is the CIA, stating Darcy never knew, when they knew she knew, "They altered and falsified" the official case file and court record to purposely gain a known fraudulent ruling.

"Any defendant that did this in court would be put in chains and charged on the spot by them".

Idaho Criminal code provides for Roger Bourne and Jan Bennetts to be charged for this act.

18-3201 officer stealing, mutilating, or falsifying public records

Any public officer, law enforcement officer or subordinate thereof, who willfully destroys, alters, falsifies, or commits the theft of the whole, or any part of any police report or any record kept as part of the official government records of the state or any county or municipality in the state, shall be guilty of a felony and is punishable by imprisonment in the state prison for not more than fourteen (14) years.

18-3203 offering false or forged instrument of record

Every person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within the state, which instrument, if genuine, might be filed or registered or recorded under any state law of the state, or united states, is guilty of a felony.

Bourne and Bennetts supervise all Ada County deputy prosecutors, their actions could serious need for a full investigation into Ada County in cases, policy, procedure, as both prosecuted fraud cases such as Kando Hall, they know what falsifying documents, altered documents, and fraud are.

Dennis Benjamin took discovery from Bourne and Bennetts, prior to the November 12th 2010 hearing, Benjamin will testify to the fact the evidence was there in CR-FE-2007-5 prior to the hearing, and as far back as 2006. He will testify to the fact he would have discredited Bourne and Bennetts if he would have represented Howland in the Nov. 12th 2010 hearing. He will testify to the fact John Sutton was ineffective counsel at the hearing.

Eric Fredericksen took discovery from Bourne and Bennetts in June 2013, and will testify to the fact the evidence was given to him, present in CR-FE-2007-5 after the Nov. 12th 2010 hearing, although some of it was missing the full discovery that Bourne and Bennetts produced, offered in official public government record in 2006, 2007, 2008, as well as evidence they still suppress, hide, falsify the existence of such as: S20060708, S20060702, S20060703, CV-CP-0617231, CARES Intermountain story Lewis 8-23-06-10-13-06 #1320851, 1321533, 1321540, 1332598, 1332599, Dept Health and welfare medical and foster care file

A: Children knew "daddy" used to work for CIA

B: Bourne, Bennetts knew children were not abused, neglected, abandon, or even spanked prior to removal.

"this proves they falsified police reports, documents, to unlawfully kidnap children to coerce statements.

C: Frances Darcy knew about Howland's working for CIA as children stated.

D: Shows unlawful conduct, in violation of Idaho, federal law, traumatized children.

"Prosecutor violated the duty not to argue false or inadmissible evidence" *Miller v. State* 386 U.S. 1, 87, 54-785 17 LEd 2d 690

"Prosecutors presentation of tainted evidence is viewed seriously and its effects are exceedingly carefully scrutinized." *United States v. Polizzi* 801 F.2d 1543, 1550 (9th Cir. 1986)

"Prejudice to defendant's right to a fair trial is even more palpable when prosecutor has not only withheld exculpatory evidence, but knowingly ~~intro~~ introduced and argued false evidence." "Materiality of false evidence introduced by prosecutor must be judged in context of entire record." *Chapman v. California* 386 U.S. 18, 24, 87, 54-824, 828, 17 LEd 2d 705

"Prosecutor violated the duty to inform the defense of material exculpatory evidence" *Brady v. Maryland* 373 U.S. 83, 87, 83-947 1194

"Violated a duty to correct false evidence when offered" *Napue v. Illinois* 360 U.S. 264, 269, 79 S.Ct. 1173, 1177, 3 LEd 2d 1217

"Focus on defendant's right of due process" *United States v. Agurs* 427 U.S. 97, 110, 96, 54-2392, 2400, 49, LEd 2d 342

"Knowingly offered perjured testimony" *Manney v. Holden* 294 U.S. 103, 112, 55, 54-340, 341, 79, LEd, 791

"*State v. Ellington* 151 Idaho 53, 253, P.3d, 727 May 27th 2011 No. 33843 "A conviction obtained by knowing use of perjured testimony is fundamentally unfair as a violation of due process U.S.C.A. Const. Amend 14th.

"*State v. Wheeler* 148 Idaho 304 Ct. App. No. 35194 "The State cannot convict a person with testimony known to be false or allow the testimony to go uncorrected..."

Roger Bourne and Jan Bennetts are caught red handed. Their very own discovery, in their very own words and signatures, produced in 2006, 2007, 2008, but in November 12th 2010 to present, it never existed. They slander the defendant throughout the Nov. 12th 2010 hearing, intentionally, with the full knowledge they are falsifying, altering official public records, government documents, record, and the records of the court underneath.

"it could not be any clearer than if they fraudulently forged a check in front of the court, on record".

Nov. 12th 2010 transcript page 82 line 6-8 "But his children, he regularly used a PVC pipe and other kinds of things, and he deprived them of food"... This is a total lie, 520565701, Dorcy Benik, and CAPES interviews 1320851 thru 1332599 and Feb 13th 2007 Health & Welfare Administrative hearing all prove it, and Bourne & Bennetts knew it was a lie. This is proven slander, fraud, intentionally, knowingly produced in official record.

"To maliciously slander, fraudulently prepare evidence and testimony that Bourne and Bennetts knows to be false, because they falsified and altered it himself, proves malice without doubt".

3. It further proves Bourne and Bennett's knew they had violated Idaho criminal codes of kidnapping, unlawful imprisonment, reckless endangerment, other, including federal parental rights laws. Bourne and Bennett intentionally used this to exact behavioral modification upon children and to coerce the defendant into making statements in an attempt to get his children back from Bourne's unlawful custody. Bourne, Bennett never had subject matter jurisdiction to remove the children or prosecute CV-CP-0617231. That is why they continue to hide, suppress, destroy, falsify this official record.

Feb 13th 2007 Peg Doughty chaired an administrative hearing, recorded by audio with Ada County Sheriff's deputy Jerrika Arler and Dept. Health and welfare L.S.W. Heidi Guitas. Both testified under oath that Hawkins never abused his children, nor did anyone else prior to state custody. Children were healthy, clean, well cared for, No danger to them in the home. Around the home, or even in the state. They were asked if they knew what 16-1608 imminent danger meant, they said yes, serious bodily injury, but that was not the case. Their removal had something to do with something else. Their testimony makes it clear why Bourne and Bennett suppress, falsify, destroy as it would prove they intentionally brought a frivolous case with no bases in fact or law, exposing the county to a very large lawsuit. Again we have Bourne, Bennett's violating state and federal law.

"Because of the serious ramifications and consequences which could follow from a Court acting without jurisdiction over subject matter... judgments entered by a court without jurisdiction over subject matter are void and are subject to collateral attack and are not entitled to recognition in other states... In addition, Judges who act without jurisdiction over subject matter may be liable for damages in civil actions". *Shump v Sporkman* 435 US 349 98 Sct 1099, 55, LEd 2d 33 (1978)

Subject matter jurisdiction may be raised sua sponte by a trial or appellate court.

"Court has sua sponte duty to ensure it has subject matter jurisdiction"

State v Kavanecz 139 Idaho 482, 483, 80, P.3d, 1083, 1084, 2003.

4. Defense believes this Court lacks subject matter jurisdiction. On May 31st 2013 Deputy Beasley issued a document stating he had "denied the defendant mail". Later he said he returned it to sender, but initially stated it did not have a complete return address. The fact is Ada County had blocked a legal document, or destroyed it. Defendant was told it proved that the "indictment was invalid". Grand Jury was not lawfully seated, order was not signed in one copy, other copy showed grand jury term had expired. This invalidates the indictment, and defendant must be released immediately. *State v Dalling*. Further Idaho Supreme Court has ruled a warrant without a Judge's signature is void, so is a order seating grand jury. Eric Fredenrath has tried to obtain these documents through the court system, which has failed to produce any document giving this court subject matter jurisdiction through a valid indictment (previous). The Grand Jury was with authority to issue the indictment by Judge's order, or in term.

5. Roger Bourne and Jan Bennett's written closing arguments is clear and convincing evidence of fraud, falsified official government, public record intentionally, knowingly manufactured by their hands, used, signature. The entire document is full of lies, knowingly produced in violation of state and federal law. It proounds the very evidence that they know is untrue by their own discovery.


Goffin v state of California 380 US 639 85 Sct 1229 "Prosecutorial misconduct, reversed, dismissed regardless of harmless error". State v Kase 100 Idaho 877, 879, 606, P2d 981, 983, 1980 "Forum shopping"

Bourne and Bennett's stood in front of the Idaho Supreme Court, allowing, promoting the state deputy attorney general to argue can intentionally produced fraudulent official record. If they will openly lie to the highest court in Idaho, failing to act with any reasonable dignity, they will lie to any court in the state, denying defendant due process and a fair proceeding at every turn. There is no way that this court, or any court can be sure that the entire record in CR-FE-2007-5 is not tampered, altered, falsified, hidden, or destroyed, which gives CR-FE-2007-5 no credibility, because Bourne and Bennett have no credibility.

The defendant motions this court to dismiss the indictment and case on the above grounds, and supporting motions, to take judicial notice of all proceedings, rulings, motions, evidence, case file, audio, etc. which shows such extreme pattern of bias, prejudice, state and federal civil and criminal code violations, United States Constitutional violations over seven years that have tainted every aspect of the defendant's case, Denied Quick and Speedy August 29th 2006 to Feb 25th 2007 and beyond. Denied preliminary hearing, reset six times do to the prosecutor unprepared, then forum shopped to indictment where Bourne committed many violations, admitted inadmissible testimony, in violation of 6th Amendment right to counsel, violated his expressed duty under F.C.R. 6.2 advise standard of probable cause, denied jurors to ask questions on transcript, had contact with juror outside of hearing, during deliberations, would never have obtained an indictment without his unlawful acts as all tellers picked another man's only testimony was unlawfully obtained by Det Dave Smith under 6th amend that enabled indictment, without such, no indictment would have been founded in that bank robbery. That is why Bourne forum shopped to indictment, as a skilled defense attorney, would have cross examined Smith and found that he had violated the 6th Amendment and rendered Smith's testimony inadmissible. The habitual fundamental Constitutional violations with the Altered falsified testimony and evidence makes it impossible to ensure a fair trial and rendering the case in arrested judgment, untidyable.

Defendant moves for the indictment to be dismissed, case dismissed, with prejudice attached immediately because defendant has been denied life, liberty, justice, without due process of law under USCA state and federal law, unfairly prejudicing him.

Dated this 29th day of June 2013


Faran R. Hankin

Faron R. Hawkins
Ada County Jail
7210 Barrister
Boise Id 83704

JUL 03 2013

CHRISTOPHER D. RICH, Clerk
By INGA JOHNSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v

Faron R. Hawkins
Defendant

Case No. CR-FE-2007-5

Motion to Dismiss Indictment, Case,
For Prosecutorial Misconduct, Fraud,
Fabricating Official Government Record, Soliciting
and Admitting Known Perjured Testimony
Coercion, Creating False Instrument of Record

Comes Now Faron R. Hawkins, Defendant, Pro Se, and motions this court as follows;

The defendant motions this court as to the above motion to Dismiss and the Defendants memorandum in support of the Motion to dismiss as to the following and requests this be set for oral argument with proper notice so the defense will have proper notice to subpoena witnesses to testify as to the facts. The following are some of the issues to be raised and may be expanded as additional evidence is available.

1. August 11th 2006 defendant is arrested approx 5AM, is not mirandized, request counsel 6th Amend, handcuffed.
2. August 11th 2006 defendant is placed in interrogation room, 39 hours sleep deprived, under influence of peroxide, braicot, Johnny walker red label, all found at scene of arrest. Police interrogators start questioning without counsel, 6th Amend, defendant invoked 6th, no interview without counsel is allowed, even if law enforcement was not present when invoked. Det Dave Smith Boise Police officer was told by defendant on recording numerous times, want a lawyer, do not want to answer without lawyer, not without my lawyer. Smith continued in direct violation of defendant constitutional rights 6th Amend Rogers v Richmond 365 U.S. 534, 81 S.Ct. 735, 5 L.Ed. 2d 760 "convictions following admissions of involuntary confessions can not stand, regardless of trustworthiness of confession... A state must establish guilt by evidence independently and freely secured and may not by coercion prove its charge".

the defendant never signed his fifth amendment Miranda, refused, never freely waived 5th or 6th amend-

2. August 11th unlawful interrogations took place in Oregon where recording to defendant without permission is unlawful. Det Smith will be the only witness testifying against defendant in Grand Jury, using unlawfully obtained testimony, and falsely stating defendant waived 5th 6th amend.

3. August 27th 2006 defendant extradited to Boise Idaho where Det Smith, fully aware of defendant's 6th amend counsel, to not be interviewed without counsel, again violates defendant's rights.

4. August 28th 2006 on or about defendant arraigned, pleads not guilty.

5. August 29th 2006 on or about defendant is again removed, this time, removed from Ada County Jail, to a off site location, and interrogated for over six hours without counsel by at least five different Police interrogators, some of which were Det Dave Smith, Det Andy Kinsg, SA Scott More, after unknown, in direct violation of defendant's 6th Amendment.

6. Sept 12th 2006 preliminary hearing, defendant first meets counsel, refuses to waive preliminary hearing. Roger Bourne says he is not prepared, prelim is reset. Counsel stated if you do not waive your preliminary you will just piss off the prosecutor.

7. Sept 14th 2006 two days after refusing to waive preliminary Ada County Sheriff deputy, Jerrika Ander, LSW, Heidi Gurtas under orders from Roger Bourne unlawfully take defendant's children.

8. Sept 18th 2006 Defendant is denied access to childrens hearing, unlawfully.

9. Sept 19th 2006 Defendant sends Kite begging for childrens return, defendant will do anything to get children back.

10. Sept 20th 2006 on or about Det Smith calls defendant out and suggests if he is pro se that Smith can talk to him.

11. Sept 27nd 2006 on or about defendant says he is requesting pro se, meets with Det Smith, begs for childrens return.

12. Sept 27th 2006 Second preliminary hearing, defendant refuses to waive preliminary hearing, again Roger Bourne is not prepared. Defendant begs for childrens return. reset

13. Sept 27th defendant is told if he remains pro se that they can have free access to defendant- defendant begs for return of children, SA Scott More Det Dave Smith tell him if he cooperates with them, tells them what they want to hear, they will see what they can do about getting his children back. Don't pass the prosecutor off; Coercion. resets

14. Sept 28th 2006 on or about defendant is begged to get into children's hearing, begging for children.

15. Oct. 2nd thru 18th meets with SA Scott More FBI, Boise Police officer Rapanillo late at night around 9pm to 11pm without counsel, begging for children back

16. Oct 19th 2006 third preliminary hearing, stand by counsel states you better waive your prelim you are pissing them off. Defendant said give my children back. Roger Bourne said again to court, he was not prepared. reset prelim

17. Oct 21st through Nov 12th 2006 on or about SA Scott More, and unknown Boise Police meet with defendant late at night 9pm to midnight. Defendant is coerced to talk to try to get children back, Det Dave Smith meets again.

18. Nov. 17th 2006 fourth preliminary hearing, defendant refuses to waive, Roger Bourne is not prepared. reset for Nov. 30th 2006. Defendant requests his children return.

19. Nov. 13th 2006 Defendant takes polygraph with SA Scott More and SA Stephen Carter as to his cooperation and truthfulness, Defendant passes polygraph at 100% No Deception Indicated NDI report dated Nov 14 2006

20. Nov. 8 2006 Begs to be let into children's hearing, took DNA, awaiting results

21. Nov 30th 2006 fifth preliminary hearing defendant again refuses to waive, give me back my children, Roger Bourne again is not prepared, case should have been dismissed, prelim reset for Jan 11th 2007.

22. Dec 8th 2006 on or about defendant is let into children's hearing, only given days to prepare for hearing, denied discovery that proved unlawful removal.

23. Dec 21st 2006 on or about defendant is denied discovery, everything is denied, not one page is given that proves children were kidnapped in direct violation of law.

24. December 25th 2006 Defendant has now been unlawfully denied all of his parental rights for since Sept 14 2006, and denied all contact, coerced statements from defendant, promised childrens return if defendant told them what they wanted to hear. Promised 7 years if made statements, would get children back. Christinas thinks of Kibby himself. Traumatized, children in separate homes, daughters reports of non-stop crying, from Heidi Campos, Ander, and Sam pushed to point of being prescribed anti-depressant.

25. Jan 2nd 2007 Roger Bourne, unable to give waiver from defendant forum shops to a indictment where the defense is unable to bring up the fact 6th Amend prohibited Det Smiths testimony before the court, so Smith lies and states he had waiver from defendant. The only testimony Bourne had as to the bank robbery was Det Smith, without him. No probable cause, that is why Bourne kept resetting preliminary, denied defendant preliminary.

26. Jan 2nd 2007 Denied preliminary, forum shopping.

27. Jan 2nd 2007 Bourne violated ICR 6.2, failed to advise standard of probable cause, unity, merged one count of bank robbery with an admission unlawfully obtained, with second count with no admission, prejudicial powder, admitted unlawful testimony, coached witnesses by pointing at photographs, by admitting testimony about "lost weight" "less hair" coaching witnesses. Denied juror to ask questions, interfering with independent role of Grand jury, spoke to juror outside of hearing as shown on transcript. Prepared two impeachments, showing Grand Jury was out of its term on one.

28. Feb 2nd 2007 Quick and speedy 180 days are expired from August 28th 2006 Defendant never waived quick and speedy, due process violation requires dismissal. Jan Bennett's stated Defendant did not waive quick and speedy until April 13th 2007, thus would prove violation.

29. Feb 14th 2007 Pkg Daugherty chaired administrative internal Health and Welfare hearing with Det Kenneth Ander and Heidi Campos under oath, on the recorded hearing Ander and Campos testify to the fact that he state, Ada County Prosecutor office never had lawful right, children were never abused, neglected, abandoned, or in any danger whatsoever. Defendant never even spanked them. Court violation

30. July 8th 2007 Defendant had a psychiatric break taken to state, the extreme pressure of coercion, trauma of children unlawfully taken, traumatized, deliberate fraudulent reports, false instrument of record produced by Ada County Prosecutors, Bourne.

31. Nov 15th 2007 Suppression hearing, Det Dave Smith admits defendant invoked his 6th Amendment and refused to waive or sign waiver of 5th amendment Miranda, knowing violation.

32. March 6th thru Nov. 15th 2007 Bourne sent fraudulent reports, record to state as to children's case to be used to bring case CV-SP-0704390, totally based on fraudulent false record as proven in Feb 2007 hearing with Guizel Arler under oath. Bourne continues to perpetrate a fraud and torment the defendant, coercing behavior to aid in Bourne's prosecution knowing the children mean everything in this world to the defendant.

33. Jan 7th - 11th 2008 Trial, discovery, copies of all discovery was denied the defendant to keep until the second day of trial Jan 8th 2008 Defendant was denied all of his witnesses to the the Prosecutors office "mistakenly" calling off the service of all subpoenas that were properly issued, and approved by the court. Must violation of due process and 6th Amendment right to witness, requires dismissal.

34. Jan 7th - 11th 2008 Roger Bourne at trial lied to jurors stating the state or he did not have custody of children, then as soon as jurors retire he admits to court he does have custody, makes the defendant have a prejudicial credibility issue when Bourne lied. Bourne in front of the Jurors said "your jurish aren't you". Prejudicing defendant.

35. Jan 22nd 2008 on or about Bourne issues letter, defendants subpoenas were mistakenly stopped service by the Prosecution. This requires dismissal court violation.

36. Prosecution Report, never given to defendant, has fraudulent information knowingly written, such as beating children, etc. Prejudicial sentencing tactics, fraudulent, false.

37. May 10th 2010 Violated sentence, abuse of discretion

38. ~~Nov~~ Nov. 12th 2010 Competency hearing, ineffectual assistance of Counsel, Sutton, unprepared, hired by defendant's parents, was changed from Bagman just 2 days prior to hearing.

38. Defendant refused to sign the agreement, any agreement at all, told Sutton to return money, Sutton refused, showed up at hearing, did not have even one question prepared, did not admit even one document, did not know the case, did not get rebuttal doctor, did not make verbal closing argument, did not make requested written closing argument, appeared to be under the influence of something, Talked about people hanging themselves, totally out of touch with the proceedings. Later told Idaho State Bar he was only hired for Comp hearing.

39. Nov 12th 2010 Competency hearing Bourne and Bennett's provided the only evidence, exhibits, information to Dr Sample and Dr Estes, fraudulently, knowingly excluding, suppressing, destroying, altering the discovery evidence that they had previously issued to the court and defense as fact. Darcy says she had known of Hankins' connection to CIA for 15 years in 2006-2007 discovery, numerous times, on audio and report, but at Nov 12th 2010 Hearing Bourne and Bennett's knowing of its existence, deliberately fraudulently admit, submit perjured testimony that Darcy knew, and never said anything about it. In Comp hearing, testimony Darcy said defendant beat children, but in 2006-2007 she is on record stating defendant never even spoke to them. Completely fraudulent Darcy said, he would never hurt the children. Bourne Bennett's knowingly create a false instrument of record, just as they did prior in CV-CR-0617231 and CV-SF-0704390, Perjudicing defendant and violating Idaho criminal code 18-5201, 18-5203.

40. Nov 12th 2010 after Competency hearing, defendant requests to go Pro Se, court denies the motion, now defendant will be denied counsel until Feb 18th 2012.

41. Nov 22nd 2010 Bourne Bennett's produce a totally, knowingly fraudulent document and admit it as fact in their closing arguments, written - where they state the defendant is manipulative, yet they are the ones manipulating official court records, testimony, as seen throughout, but attention to page 18 Conclusion is proven to be deliberate and knowing fraud by their own discovery in 2007.

42. Transcripts of Nov 12th 2010 hearing show Sample changed his mind because of Bourne and Bennett's fraudulent misrepresentation of the facts. pages 30-37 the doctor talks about why he changed his opinion, because darcy did not know anything about CIA, and that it was no where in the evidence provided by Bourne and Bennett's, who knew it was there, issued it in 2006-2007-2008, argued against it at trial, used deliberately, perpetrated a fraud on the doctors to gain a knowingly perjured official record.

43, the court allows the defendant to proceed pro se sometime in Dec or Jan, without meeting the requirement of Facetta. Defendants last Facetta to date is in 2007, federal violation of due process.

44. Court failed to provide counsel to defendant from Nov 12th 2010 to Feb 2012. Numerous motions, writs were filed with Idaho Supreme Court, rejected because defendant was not granted pro se status. Writs specifically stated defendant is denied counsel. State Appellate Public Defenders stated they were not informed of order until late, well past 42 day period to appeal decision on their grounds as the defendants. Denying defendant his fundamental 6th amendment right to counsel. In May 2013 court hearing, the courts error is clear as Sutton is still in Court record as still counsel, yet court released Sutton in Dec 2010.

45. On Jan 18th 2013 Roger Bourne, Jan Bennett's, ~~with~~ during the oral argument before the Supreme Court stood, and were present, knowingly perpetrating a fraud upon the Supreme Court, when they very own evidence from 2006-2007-2008 - ~~was~~ disavowed that they produced, distributed, put their name and signatures too, proves they lied.

The defendant hereby asks the court to accept this motion to dismiss based on the defendant's memorandum in support of this motion to dismiss and set for oral argument but if not allowed oral argument the defense requests for an expanded written closing argument. As the defense would need time to subpoena witnesses for the defense.

Dated this 28th Day of ~~May~~ ^{June} 2013

[Signature]
Faron R. Hankins

Faron R. Hawkins
Ada County Jail
7210 Barrister
Boise Idaho 83704

JUL 03 2013

CHRISTOPHER D. RICH, Clerk
By INDA JOHNSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v

Faron R. Hawkins
Defendant

Case No. CR-FE-2007-5

Motion to Dismiss Indictment, Case
For Prosecutorial Misconduct, Fraud,
Falsifying Official Government record,
Admitting Known Perjured testimony,
Coercion, creating false instrument of record.

Comes Now Faron R. Hawkins, Defendant, Pro Se, and motions this court as to the following:

The defendant motions this court to the above Motion to Dismiss and the defendants memorandum in support of the Motion to Dismiss as to the following, and requests this be set for oral argument with proper notice so the defense can call witness to testify as to the facts of this motion.

1. Roger Bourne and Sara Burnett's knowingly, willfully, deliberately with malice did alter, destroy, falsify official government documents, court documents of record, solicit knowingly perjured testimony, engineering perjured testimony and created a false instrument of record in the above case and other cases CV-CR-0617231, CV-SR-0704390, M0600093, and Idaho Supreme Court Docket # 38532 denying the defendant due process of 5th, 14th amendment; 6th amendment due process right to counsel, 6th amendment right to witness, other constitutional fundamental rights while knowingly conspiring to perpetrate a fraud upon the defendant, the courts, the taxpayers of Idaho, violating many Idaho criminal codes including but not limited to: 18-3201, 18-3203 against the laws of the State of Idaho and the Federal government. Set for oral argument with notice.

2. Bourne and Burnett's continue to do so, uncorrected, with official court records proving claim.

Dated this 28th day of ^{June} ~~July~~ 2013

Faron R. Hawkins
Faron R. Hawkins
000130

Faron R Hawkins
Ada County Jail
7210 Barnster
Belle Id 83704

NO. _____
A.M. _____ FILED P.M. 4:50

JUL-03-2013

CHRISTOPHER D. RICH, Clerk
By INGA JOHNSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

State of Idaho

Plaintiff

v

Faron R Hawkins

Defendant

Case No. CR-FE-2007-5

Motion to Dismiss Indictment

Comes Now Faron R Hawkins, Defendant, Pro se, and motions this court pursuant to I.C.R. 6.2(d), 47, 48(a)(2); The United States and Idaho Constitutional provisions requiring due process of law in criminal proceedings, to dismiss the above indictment and case against the defendant upon the grounds and for the reasons that the state unfairly prejudiced the defendant during the Grand Jury proceedings by violating I.C.R. 6.2(d) failing duty specifically requiring the prosecutor to "advise the Grand Jury as to the standard of probable cause". Without a properly founded indictment there can be no trial or verdict.

Request this be set for oral argument within 14 days for dismissal.

Dated this 29th day of June, 2013

Faron R Hawkins
Faron R Hawkins
Pro Se

JUL 03 2013

CHRISTOPHER D. RICH, Clerk
By INGA JOHNSON
DEPUTY

In The District Court of The Fourth Judicial District of

The State of Idaho In And For The County of Ada

State of Idaho
Plaintiff

VS

Farrin Raymond Hawkins
Defendant

Case No. H0700005

Defendants Memorandum of Law in Support
of Motion to Dismiss Indictment and Case
Overturn the verdict

I Statement of the Case

A Nature of the Case

The Defendants motion to dismiss indictment and ^{case and} overturn the verdict.

B Procedural history

This matter was presented to the grand jury on January 2nd 2007; after which an indictment was returned and filed. The defendant is charged with two counts of "robbery" a felony. The defendant pleaded not guilty.

C Statement of Facts

On January 2nd, 2007, the state presented evidence and arguments to the grand jury. During the proceedings, however, the state failed its duty to state the "elements" before, during and after testimony as required under I.C.R. 6.2 (c). The state did not properly separate the two counts to the jury in the grand jury transcript. Yet more importantly the state Prosecutor failed his duty as the state, during the grand jury proceedings did not advise the grand jury as to the "standard for probable cause" as required by I.C.R. 6.2 (d).

II Issue presented for review

A Did the state of Idaho violate the defendants right to due process of law by failing to perform a "duty" expressly required by Idaho Criminal Rule 6.2 (d) ? and I.C.R. 6.2 (c) ?

III Argument

A Because the state of Idaho failed to perform a duty expressly required by I.C.R. 6.2 (d) and (c). It violated the defendants right to due process of law and unfairly prejudiced him, and therefore the indictment should be dismissed. I.C.R. 6.2 (d) lists several specific duties a prosecutor must perform during grand jury proceedings. Rule 6.2 (d) specifically requires a prosecutor to "advise the grand jury as to the standard of probable cause." Rule 6.2 (c) requires the prosecutor to state the "elements" before, during and after testimony. Rule 6.7 provides that a motion to dismiss an indictment may be

"for any ~~reason~~... reasons the court concludes that such dismissal will serve the ends of justice..."

In this case the defendant was unfairly prejudiced because the grand jury was asked to find probable cause without being instructed as to the meaning as required in Rule 6.2d, giving them a standard in which to find probable cause. Without the proper tools in which to measure the states evidence and comments, the grand jury was not properly equipped to do its job, therefore the district court cannot be assured that the indictment was found for the proper reason and by the appropriate standard. Idaho Criminal Rules are clear and unambiguous. When an indictment was returned in violation of those rules, the indictment is invalid. The Idaho Supreme Court made this determination in State vs. Dalling, 128 Idaho 203, 911 P.2d 1115 (1996). In that case, a grand jury found an indictment just after its 6-month term had expired. In clear violation of I.C.R. 6 (J), Pursuant to a defense motion, the district court dismissed the indictment. Idaho Supreme Court upheld that decision, ruling that rule 6(J) "clearly and unambiguously restricts the grand jury's term of service", under the "Clear and unambiguous" terms of Idaho Criminal law, both 6 (J) and I.C.R. 6.2(d) certainly hold the same standard in which justice is to be met. I.C.R. 6.2d clearly and unambiguously requires the prosecutor to advise the grand jury as to the standard of probable cause. Weighing I.C.R. 6 (J) and 6.2d, one would have to find more weight as to I.C.R. 6.2d, as without this tool of "probable cause", no grand jury could find that measurement that defines justice and indictment. Since the state failed to perform that clear and unambiguous duty, the defendant was unfairly prejudiced and deprived his due process rights under both the Idaho and United States Constitutions. Without a properly founded indictment, there can be no trial or verdict. This is a due process violation under United State Constitutional law, requiring dismissal.

~~Dated this 29th day of February 2013~~
Dated this 29th day of June 2013.

AR/WW
H/WW Pro Se
7210 Bapostok
Boise Idaho 83705

Foran R Hawkins
Ada County Jail
7210 Barrister
Boise Idaho 83704

JUL 03 2013

CHRISTOPHER D. RICH, Clerk
By INGA JOHNSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho

Plaintiff

v

Foran R Hawkins

Defendant

Case No. CR-FE-2007-5

Motion to Dismiss the indictment and Case

For States failure to provide a quick and
Speedy trial within 180 days without waiver.

Comes Now Foran R Hawkins, Defendant, Pro Se, and motions the court to dismiss the indictment and case as to the following:

1. Defendant was arraigned in the above case on or about August 28th 2006 under MO600093 then became CR-FE-2007-5. On or about Feb 25th 2007 the states 180 days to bring the defendant to trial was up without the state even setting trial within the required time. This was done without any waiver of the defendant.
"This is a substantive, fundamental constitutional violation of due process."
2. Plaintiff's acting in bad faith, delayed charging the defendant by indictment from about August 28 2006 until Jan 2nd 2007. This delay was unfairly prejudicial because the state did this to avoid granting the defendant a preliminary hearing, at which the state was granted six resets of the preliminary hearing because they said they were not prepared, and the fact the defendant, refused to waive his preliminary hearing. This was done from Sept 12th 2006 until Jan 17th 2007 was the sixth reset, with the state changing to an indictment on Jan 2nd 2007, just prior to the date set for the sixth reset. This proves substantial delay, and forum shopping, since it was later learned, under the cross examination of a skilled defense attorney, it would have shown the state could not have proved probable cause without its sixth amendment right to counsel violation.
Request it be set for oral argument within 14 days for dismissal.

Dated this 27th day of June 2013

Foran R Hawkins

The Idaho Supreme Court stated:

The question before the Idaho Court of Appeals ~~case~~ in Hawkins was "whether the district court's failure to sua sponte order a psychiatric evaluation and to conduct a hearing to determine Hawkins' competency to stand trial was an abuse of discretion". In relevant part the court of Appeals concluded:

when taking the entire record into account, the district court should have entertained a reasonable doubt about Hawkins' mental competency either to stand trial or to represent himself. "therefore, the district court's failure to sua sponte order a mental health evaluation and make a determination as to Hawkins' competency was an abuse of discretion".

The above quote of the Idaho Supreme Court as to the conclusion of the Court of Appeals as stated on page 7 of its opinion gives a clear picture of the question, the answer to the issue, fully supported by case law as briefed before the Idaho Court of Appeals. "It was an abuse of discretion". The states misdirection of the issue to the Idaho Supreme Court attempts to change the issue by delivering us, so the state can get the answer and decision they want. The Idaho Supreme Court incorrectly, points to the states misdirection on page 7 again, quote: Moreover, the language regarding a retroactive competency determination being impossible does not appear to be "necessary to the decision". The state focused on the language "Because it is not possible" which is not the question or the answer or decision as the Idaho Supreme Court points out again in its its statement on page 7 as well, quote: "whether a retroactive competency determination was possible was not necessary to the court's decision".

The Idaho Court of Appeals decision as quoted above was because the District Court abused its discretion and it ordered the conviction vacated and free to retry if found competent.

Further the Idaho Supreme Court stated on page 8 "we did not grant a permissive opinion whether a retroactive competency determination is appropriate in Hawkins case". Because it is not, The Court of Appeals did not give the district court that option. "Free to retry if found competent" is the only option the District Court and the State had. It is interesting that the Supreme Court publishes the Appeals court conclusion to their decision on page 7, while the Supreme Court's conclusion is on page 8. Both carry the same weight, yet the Supreme Court's conclusion, and decision does not overturn or reverse the Court of Appeals decision.

The Supreme Court only reverse the district court decision, leaves Court of Appeals undisturbed. Considering the District Court had just abused its discretion, it can be concluded it erred again.

The state used the IAR 12 as a delay tactic to harass and manipulate the courts to avoid complying with the Court of Appeals order, which had been well briefed on the issues and laws. The district Court can not overturn or fail to comply with a higher court order, denying review and remedy. Court violation.

Faron R Hawkins
Ada County Jail
7210 Barrister
Boise Idaho 83704

NO. _____
A.M. _____ FILED P.M. 4:30

JUL 03 2013

CHRISTOPHER D. RICH, Clerk
By INGA JOHNSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

State of Idaho

Plaintiff

v

Faron R Hawkins

Defendant

Case No CR-FE-2007-5

Motion to Dismiss Indictment

For States Violation of Defendants Sixth

Amendment Right to Counsel Guarantee

Comes Now Faron R Hawkins, Defendant, Pro Se, and Moves the Court to dismiss on the following grounds, of Constitutional due process Sixth Amendment violation.

1. On or about August 1st 2006 Det Dave Smith unlawfully, in violation of the defendant's Sixth Amendment right of due process to have counsel present prior to any interrogations, or interviews after defendant has invoked his 6th Amended right.
2. Upon the defendant being placed in handcuffs, the defendant was asked if he would talk to law enforcement officers to answer questions. The defendant refused stating he would only speak to them after he spoke to his attorney, if his attorney was present. "I want a lawyer", "Not without a attorney", "Not without my attorney" were just some of the defendant's statements. This unlawfully prejudiced the defendant as this is states only evidence.
3. After the defendant made it clear he did not want to speak to law enforcement, invoked his Sixth Amendment right of due process, Det Smith violated that right by placing the defendant in a interrogation room and interrogating the defendant. The defendant refused to waive his Six and fifth Amendment rights, and is heard on audio requesting a lawyer numerous times. Defendant was sleep deprived of over 39 hours and under the influence of medication, percocet, lorazepam, and Johnny walker, all found on his person upon arrest.

ASK this be set for oral argument within 14 days for dismissal

Dated this 29th day of June 2013

Faron R Hawkins
000136

Faron R. Hawkins
Ada County Jail
7210 Barrister
Boise Idaho 83704

NO. _____
AM. _____ FILED P.M. 4:50

JUL 03 2013

CHRISTOPHER R. RICH, Clerk
By INGA JOHNSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho

Plaintiff

v

Faron R. Hawkins

Defendant

Case No. CR-FE-2007-5

Motion to Dismiss Indictment, Case
For Prosecutorial Misconduct, Fraud,
Falsifying Official Government record,
Admitting Known Perjured testimony,
Coercion, creating false instrument of record.

Comes Now Faron R. Hawkins, Defendant, Pro Se, and motions this court as to the following:

The defendant motions this court to the above Motion to Dismiss and the defendant's memorandum in support of the motion to dismiss as to the following, and requests this be set for oral argument with proper notice so the defense can call witness to testify as to the facts of this motion.

1. Roger Bourne and Sam Bennett's knowingly, willfully, deliberately with malice did alter, destroy, falsify official government documents, court documents of record, solicit knowingly perjured testimony, engineering perjured testimony and created a false instrument of record in the above case and other cases CV-CP-0617231, CV-SP-0704390, MA600093, and Idaho Supreme Court Docket # 38532 denying the defendant due process of 5th, 14th amendment; 6th amendment due process right to counsel, 6th amendment right to witness, other constitutional fundamental rights while knowingly conspiring to perpetrate a fraud upon the defendant, the courts, the taxpayers of Idaho. Violating many Idaho criminal codes including but not limited to: 18-3201, 18-3203 against the laws of the State of Idaho and the Federal government. Set for oral argument with notice.

2. Bourne and Bennett's continue to do so, uncorrected, with official Court records proving claim.

Done this 28th day of ~~May~~ ^{June} 2013

Faron R. Hawkins
Faron R. Hawkins
000137

Faron R. Hawkins
Ada County Jail
7210 Burrister
Boise Id 83704

JUL 03 2013

CHRISTOPHER D. RICH, Clerk
By INGA JOHNSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff
v
Faron R. Hawkins
Defendant

Case No. CR-FE-2007-5

Defendants Memorandum in Support of
Motion to Dismiss

Comes Now Faron R. Hawkins, Defendant, Pro Se, moves this Court as to the following:

1. On or about August 11th 2006 Ada County Sheriff's Deputy Detective Dave Smith unlawfully interviewed the defendant under a 6th amendment right to counsel violation by interviewing Hawkins after Hawkins had invoked his 6th Amendment right not to be interviewed "without counsel present". Hawkins was arrested, by Oregon State Police, Wasco County Sheriff's, FBI at approx 5 AM August 11th 2006. Hawkins was asked if he would talk with arresting authority after being placed in handcuffs, Hawkins simply stated, "Not without my lawyer". Hawkins was not read his miranda rights, and taken to the Morcor detention facility in the Dalles Oregon. Det Dave Smith then unlawfully had Hawkins placed in a interview room, and began questioning Hawkins. Hawkins again stated his request for a lawyer prior to answering any questions and being interviewed. Smith continued interrogating Hawkins. Some of this interrogation is on audio. Hawkins refused signing a miranda 5th amendment waiver, requested an attorney before talking to Smith, repeatedly, stated he did not want to be recorded. Smith continued interviewing, interrogating Hawkins, knowing Hawkins was sleep deprived for over 39 hours, under influence of percocod, lorazepam, Johnny walker red label, all found upon arrest. An intense stand off had just finished after 14 hours prior from August 10th 2006 until approx 5 AM August 11th 2006. The interrogation with Smith was approx 9 AM August 11th 2006, that same day just approx 4 hours after arrest. This is unlawful under 6th amendment, 5th amendment, and significant also because Det Smith testified before the Grand Jury that Hawkins had waived his 5th amendment and made a lawful admission of guilt while being questioned by "Roger Beume", admitting a false, fraudulent record.

Arizona v Roberson 486 US 675 102 S.Ct 2093 100 L.Ed 2d 704 56 USLW 4590 "Invoking 6th Amendment right to Counsel"

It is important because without Det Smiths unlawful testimony, and Roger Bourne's unlawful use of that testimony being admitted before the Grand Jury, Bourne had no other evidence that would have gained him an indictment to be issued for that charge. Again, we have Roger Bourne knowingly admitting false and unlawful instrument of record, on Jan 2nd 2007

2. During the Grand Jury, Jan 2nd 2007, Bourne further violates I.C.R. 6.2 Failing to advise the standard of Probable cause. This is done to unfairly prejudice Hawkins by first admitting unlawful testimony, now deliberately failing to give the grand jury that "measurement" in which to draw a line as to finding the undefined standard in an attempt to bring the standard bar as low as possible or making it visible to the jury, in an attempt to gain an unfairly prejudicial advantage. This is why Bourne violated I.C.R. 6.2, violating I.C.R. 6.2 to the jury. Anding Bourne to create a false, fraudulent instrument of record, an unlawful indictment.

3. Bourne denied jurors to ask questions of the witness on Jan 2nd 2006, thus manipulating the independent fact finding nature of the Grand Jury, prejudicing the outcome, manipulating the record, just as he did in the competency hearing, only showing jury and later the District what evidence he wants them to see to create the desired outcome for Roger Bourne.

4. November 15th 2007 during the suppression hearing, Det Dave Smith admitted Hawkins had requested a lawyer several times prior to answering questions, and refused to waive his 5th amendment right, that it was on audio request 6th amendment and refused to be recorded, but Smith did anyway. The Court erred, abused its discretion by stopping the hearing, changing it to a Franks hearing, striking the record and sealing the hearing. This is due process and prejudiced the defendant.

5. Hawkins was arraigned on or about August 28th 2006 under M0600093 which infact was a complaint issued in Jan 2006. Hawkins first preliminary was set for 9-12-06, second 9-27-06, third 10-19-06, fourth 11-17-06, fifth 11-30-06, sixth 1-11-07 each and every time Hawkins refused to waive his preliminary hearing, Roger Bourne had a new one set off. Before the scheduled 1-11-07 hearing, Bourne changed, forum shipped the charge from information to a Grand Jury on Jan 2nd 2007 to purposely avoid a preliminary hearing that would have proven that Det Smiths testimony was unlawful under 6th amendment, due process, and therefore Bourne would not have gained probable cause to charge Hawkins. Smith was his only evidence. This unfairly prejudiced Hawkins, and again proves Bourne will violate law to gain advantage.

6. At Jan 2nd 2007 Grand Jury, Bourne unlawfully merged two counts of robbery into one presentation, one with admission of guilt, second with no admission, this again is unlawful creating a prejudicial powder, unity issue, to unfairly prejudice Hawkins in appearance of guilt.

7. Sept 14th 2006 Roger Bourne unlawfully took Hawkins children under "imminent danger" 16-1608

As proven by a internal administrative hearing by the Dept. of Health and Welfare where on or about Feb 14th 2007 Peg Doughty chaired the hearing where under oath Det Jenika Archer Ada County Sheriff's deputy and Dept of Health and Welfare L.S.W. Hadi Quirga testified that the children were not in any danger at all either in the home, around the home even in the entire state, no danger whatsoever existed. They were asked direct questions as to abuse, Archer, Quirga stated under oath, Hawkins never abused them, that no one had ever abused them. Children were not neglected or abandoned, clean healthy well cared for, just watching tv. Bourne had ordered the children to be taken and held them in his, state custody, filing proven fraudulent reports with the court, Police, and the United States Government, keeping childrens custody, placed in foster care, separate homes, traumatized while in state custody, according to testimony in CV-CP-0617231 by Pam Derby L.S.W. Bourne's action was fraudulent to gain unfair advantage by traumatizing Hawkins to make statements in an attempt to get his children back. Coercing statements, while criminally holding Hawkins children. Again we have proof Bourne filed fraudulent instruments of record into the court to gain advantage.

8. CV-SP-0704390 Bourne's office passes off fraudulent, false documents from CV-CP-0617231 to Attorney General of Idaho to further prosecute and gain federal funding for Bourne's unlawfully sadistic act of taking children. The fraudulent documents are used to obtain federal funds by fraudulent misrepresentation, further perpetuating the fraudulent documents proven to be false in Feb 2007. This is fraud against Hawkins and Federal Taxpayers.

9. Jan. 10th 2008, Bourne lies in front of jury at Hawkins trial, that he or the state does not have legal custody of Hawkins children, even though he admitted after jury retired, that he and the state did have custody. This severely hurt Hawkins credibility before the jury. Bourne never corrected his lie when jury came back. unfairly prejudicing Hawkins.

10. Hawkins was denied a Quick and Speedy trial. Arraigned on or about August 28th 2006 as of ~~March 10th~~ Feb 28th 2007, Hawkins had not waived his quick and speedy trial nor had discovery been provided to Hawkins. This violates Hawkins due process and constitutional rights.

11. November 12th 2010 until February 18th 2012, Hawkins was denied counsel. Hawkins was without counsel of choice at Nov. 12th 2010 hearing and according to the Idaho State Bar and John Eric Sutton, Sutton did not represent Hawkins after Nov. 12th 2010 and the Court denied Hawkins Pro Se status on Nov. 12th 2010. Therefore Hawkins had no counsel to call for Competency hearing to be reopened, for rebuttal of states evidence, to make written closing arguments, to appeal decision in critical 42 days, to argue Competency retroactive ruling, to

appeal retroactive ruling in another critical 42 days, to appeal by permission. He defends position independent of the state on their own issues, to have counsel for all the days leading up to Feb 2012. Hawkins was denied the most fundamental right to counsel after this Court asked Hawkins if he wanted counsel and Hawkins said yes. Over a year, no Attorney allowing the state to prejudice Hawkins denying due process basis, required right. 6th Amendment violation requires case must begin again at point Hawkins basic due process was "over reached". Voiding all hearings and rulings since November 12th 2010.

12. Court failed to meet legal requirements of Foretta, Foretta v. California 422 US 806, 834, 95, Sct "Idaho also requires a waiver be effected voluntarily", Hawkins has not been Forettaed since 2007, and when this court allowed Hawkins to argue his retroactive competency ruling and permission to appeal hearing in 2011. Hawkins as of this 28th day of May 2013 still has not been Forettaed. This is a due process violation, the Court abused its discretion violated state and Federal law.

13. Roger Bourne, Jan Bennetts fraudulently instrument of record caused defamation, fraud, by allowing the Dept of Health and Welfare to place Hawkins name on the states child neglect list, causing pain and suffering to Hawkins, denying Hawkins review, remedy, constitutional rights, causing prejudice.

14. Nov. 12th 2010 Bourne, Bennetts, deliberately, willfully, with malice, and violating Idaho Criminal Code did solicit, manufacture, produce, alter, destroy, and fraudulently misrepresent evidence. Bourne Bennetts did as proven, take documents, evidence directly from the Case Fils of CR-FE-2007-5 Hawkins, destroy, alter, hide the evidence containing Darceys audio, written documentation about CIA, names, places, location only meeting Hawkins, trucks, vans, men coming to the door, in interviews from Oregon Oregon State Police, Idaho County Sheriff, Ada County Sheriff, Ada County Prosecutors, Colorado Authorities, FBI Champa interviews etc... all containing the fact Darcey had known about this through Hawkins for over 15 years, 18 years. Bourne, Bennetts, ~~also~~ also fraudulently hid, altered, destroyed the fact Bourne, Bennetts, had the same information in evidence from Hawkins childrens interviews, "Daddy used to work for CIA and is very high rank", Garrett Adams speaking to Shelly Armstrong, Ada County deputy Prosecutor under Bourne, said Hawkins used to work for CIA DIA, knew about it for over 12 years. Kevin Bernick, CIA for over 12 years, Michelle, 12 years, Darceys mom CIA over 12 years, half the community knows about Hawkins past with CIA. Bourne, Bennetts, fraudulently hid it from Dr. Estes, Dr. Samplon. In fact they deliberately lied; said it did not exist. On page 18 of Bourne and Bennetts closing argument on Nov 22nd 2010 after competency hearing they, in their own words, in their own hand fraudulently lie and say, Hawkins never mentioned it to Darcey, I quote: "let the defendant never mentioned these delusions to the people who knew him best, his common law wife Darcey and his mother". This is a prepared, ~~labeled~~ label statement from their own hand. Proven because

in Bourne and Bennetts very own discovery, produced, ~~and~~ delivered to the defense in CR-FE 2007-5. I have Darcys statements and audio as well as the FBI clamps, proving Bourne and Bennetts deliberately fraudulently falsified a Court, public record that they both put their name and signatures on as true and correct. Proven fraudulent by their own hand. Bourne Bennetts state it was the defendant who was manipulating the system, now, we have proof by Bennetts Bourne's own hand, they are who have been manipulating the system, admitting perjured testimony they deliberately manufactured, knowingly done from their own case files. As to Dr. Esters testimony as to Hawkins diagnosis, Esters never tested or evaluated, or interviewed Hawkins, and Esters own testimony as to the symptoms "permeating" all of "his entire being" with the delusion. That everyone Hawkins came in contact with would hear about his delusion. This is completely wrong, according to the American Psychiatric Assoc.

Diagnostic Service manual DSM IV TR which is required for Esters to diagnose and Dr. Claude Robert Cloninger MD PhD Psychiatrist author of hundreds of articles and books, considered one of the top Psychiatrists in the world and testified before the Ninth Circuit Court of Appeals as the expert on the exact same illness Dr. Sample first diagnosed Hawkins as in the case U.S. vs. Ruiz-Gaviola. Thus totally discrediting Esters, yet it must be cleared, Esters was deliberately not given any information about CIA, Darcy etc...

Bourne Bennetts, orchestrated an elaborate scheme to manipulate the truth, to fraudulently create a misstatement of record to deny Hawkins justice, and gain Bourne and Bennetts a appeal to the Idaho Supreme Court, denying Hawkins the new trial, remedy, review, higher court ruling they were required to grant Hawkins as ordered by the court of Appeals. Pure, fraud, criminal acts, intentional, denying Hawkins a fair trial, due process, equal protection, done by Bourne and Bennetts knowingly, clearly.

Bourne and Bennetts clearly knew Darcy state she knew about the CIA for over 15 years.

so when Bourne and Bennetts deliberately hid, destroyed, altered, falsified that evidence, they knew Esters and Sample would not see it, yet when Bennetts, Bourne ask Sample and Esters if they saw anything about the CIA, ~~they~~ Bennetts, Bourne knew what they would say because they are the only ones that provided the information to Esters and Sample, and Bourne and Bennetts had deliberately removed the CIA evidence. When Bennetts Bourne keep asking the same question about the CIA, "would you expect to see CIA, Darcy knew nothing about CIA, did you see anything about CIA, no nothing," came the answer, because Bourne and Bennetts fraudulently, knowingly, hid it, never gave it to them but knew it was there.

This would be the same thing if you gave Bourne and Bennetts a Bible, they would cut out all the pages that have to do with Jesus, then hand it to Esters, Sample, and ask, did you see anything about Jesus, no, nothing. Bennetts also has said that they never called off the subpoena, yet in their own response to discovery, they admit it was their mistake. Bennetts has called the defendant disingenuous, therefore she must know what fraud is.

Bourne in CV-CP-0617231 knowingly solicited perjured testimony & false reports that gained him coerced statements from Mr Hawkins ending his prosecution of Hawkins in CR-FE-2007-5 as Bourne tortured both Mr Hawkins and his children while they were in foster care unlawfully.

Bourne, Bennetts in CR-FE-2007-5 Solicited knowingly false testimony from Dr. Esters, Dr Sample, in Nov. 12 2010 competency hearing. Bourne Bennetts both present at Mr Hawkins trial, prosecuted Mr Hawkins, presented evidence, testimony, admitted discovery, issued discovery in trial and provided the Court with the complete case file. Yet when Bourne and Bennetts presented "the only evidence" presented to Dr Esters and Dr Sample, they purposely hid all evidence that would be "favorable" to Hawkins, all evidence about CIA, DIA, Darcys audio of planes, trucks, CIA that she had known of for over 15 years, was never mentioned. Bourne and Bennetts knew it was there, but deceitfully hid it, manipulating the outcome of the decision. Denying a fair, unprejudicial hearing, proceeding, trial, in effect, denying justice. Bourne and Bennetts also knew about Darcys FBI Camps house interviews months later in Colorado where it is there again in print, CIA, DIA, Kenny, Nigel, Stephanie, etc. planes, landing strips, trucks, men in uniform, again in state discovery that was in trial discovery, but completely absent in Dr Esters list of items he reviewed. On the stand Bourne, Bennetts question, pointing out that there was no CIA conversations to the people he was closest to, or really anywhere else. When Bourne and Bennetts knew it was there, and they maliciously, deceitfully, deliberately lied about its existence. Further CIA is in CV-CP 0617231 as the children all talk about Daddy being very high rank in CIA on video and print. The very item that Bourne Bennetts deny exists in request for discovery in 2007 yet Darcy had spoke to Bourne, Bennetts, Det Jerrica Archer Ada County Sheriff (He one that took them at Bourne's order) Heidi Gargas LSW. Childrens reports while in foster care have them telling foster parents about daddy and CIA. Bourne, Bennetts, Shelly Armstrong spoke to Garrett Adams, he knew about Hawkins and CIA for at least 12 years, Travis Adams, CIA, Darcys Mom knows about Hawkins CIA, Darcys friends Lori Kennedy and her husband in Portland Oregon in 1991, CIA, etc. Bourne Bennetts knew all this and more, but deliberately lied to the court that it did not exist, lied to Dr Esters, Dr Sample, that it did not exist. Deliberately manipulated tampered with discovery in a camp hearing to gain a ruling, gain an advantage in prosecution so unfairly prejudicial, it is criminal fraud, knowingly soliciting false testimony and making official record of it. Bourne, Bennetts, prosecuting thousands of cases, overseeing the prosecution of over 10,000 in Bourne's career, means he has more exposure with the American Psychiatric Associations Diagnostic Service manual called DSM IV TR speaks to the symptoms required to make a correct, proper diagnosis. Bourne, Bennetts have read the DSM IV TR, spoke to numerous Doctors, examined them, consulted with them, argued against them to obtain verdicts, and with them to obtain verdicts. Bourne knew the symptoms, Bennetts knew the symptoms, they knew the symptoms they solicited, that were entered into the court record were "completely wrong" according to DSM IV TR, Not a little, but 180° degrees from the truth. Because if Bourne and Bennetts would have told the truth, they would not have obtained their desired, and required ruling to appeal to the Idaho Supreme Court.

Bourne, Bennetts, deliberately admitted fraudulent reports, testimony to gain a fraudulent ruling, deceived the courts, not just Judge McLaughlin's Court, but the Idaho Supreme Court. Misusing taxpayer funds to unlawfully delay justice, to gain not only an unfairly prejudicial advantage over Mr Hawkins, but violating Idaho and Federal criminal codes to do it. Separating a family, denying parental rights, denying Mr Hawkins all his constitutional rights that are guaranteed by the United States Constitution, due process, equal protection, right to a fair trial, proceeding, right to counsel. Bourne, Bennetts took Mr Hawkins children, proven unlawfully, manipulated evidence, lied, coerced, and coerced statements, confessions, unlawfully, in an attempt by Bourne to traumatize Mr Hawkins so he could get a conviction. Mr Hawkins did what he did, to get his children back, when Mr Hawkins was told of the non-stop crying in foster care, refusal to sleep at night, of the fact his son was placed in one home, and his daughters in another. Mr Hawkins and his children were pushed so far, both he and his children were prescribed anti-depressants. Bourne delayed all contact between Mr Hawkins and his children, for the 18 months, Mr Hawkins children were told, if you speak about your dad, or even his name in front of your grandparents when they visit you in foster care, you will not see your grandparents again. Children were going to be adopted out, Mr Hawkins was told if he did not do as he was told, Bourne hired a special prosecutor, or provided the false evidence of ruling in CV-SP-0617231 to a special prosecutor that prosecuted Mr Hawkins in CV-SP-0704390 as the state further pressured Mr Hawkins, and tormented him. Since Bourne got the CV-SP-0617231 ruling unlawfully (see Audio Interview below under oath 12th April Audiogroup L91R) with fraudulent official documents, the state now filed fraudulent official documents with the United States to obtain funding for their act of unlawfully kidnapping Mr Hawkins children, so the state could deceive, fraudulently defraud the United States taxpayers and Government. Mr Hawkins had his name defamed or defamed by placing it again, unlawfully, with fraudulent documents on the states child neglect list. Further causing mental harm, damage publicly to his name.

Bourne and Bennetts using fraudulent ruling, gained in CRFE 2007-5 appealed to the Idaho Supreme Court, in Supreme Court Docket No. 138532 of which was decided in Bourne Bennetts favor due to the fraudulent evidence and ruling to appeal on. April 17th 2013 ruling caused a three year delay from the Court of Appeals ruling to vacate remand Free to retry if found competent was the order.

Bourne, Bennetts, refused to obey the order, instead, going about manipulating evidence, lying, evidence, admitting knowingly fraudulent evidence and deliberately diverting the courts attention, making an attempt to delay, harass and avoid the Court of Appeals "order, vacated, remand, Free to retry, if found competent". The district court can not overturn or disobey a higher courts order. As the Idaho Supreme Court said, they did not address if retroactive competency is appropriate in Hawkins case. It would not be appropriate because the Court of Appeals did not give the lower court the option to resentence, only "Free to retry, if found competent". Therefore the Idaho Supreme Court only decided that Robert Bourne and Jan Bennetts argument was "not necessary" to the opinion.

They purposely misdirected the court that the "phrase because it is not possible to" was the law of the case, when it was not.

one need only review Bourne's conduct from ~~September 28th~~ August 28th 2006 until Jan 2nd 2007. 000744

we see Bourne unlawfully having Mr Hawkins interrogated for over six hours after Hawkins had unveiled his sixth conviction, stopping police contact with Hawkins per Hawkins' lawyer request of jail official. Bourne Pet Dove Smith was in Oregon, he knew they had been turned away. Bourne keeps Hawkins close without counsel for over six hours while Det Smith, SA Scott Marc FBI, Det Andy Knight, and others, come and go, as Hawkins begs for his children, help from them, protection from Bird, etc... tells them to stop, but they continue. After for lawyers, does not want to speak without his lawyer. They just keep coming in and out. Bourne, lawyer with video, cuts out entire portion of interrogation, Hawkins is physically drained, crying, exhausted. Bourne has it taped together to hide what he had done but with a witness you can show the frames and see it is tampered with. Bourne took children, pressured Hawkins to waive preliminary hearing, Hawkins' refusal, the preliminary is read, again Hawkins refused. Five times "Bourne resets preliminary hearing as Bourne changed by information, then just prior to the fifth time, Bourne, goes to the grand jury on Jan 2nd 2007 and solicits knowingly false and unlawfully obtained testimony, Bourne also merges two counts of 1st degree robbery into one premeditation, resulting in unlawful premeditated murder, only issues as one count carried an alleged admission, while the other did not. Bourne did this because he did not have sufficient evidence to insure he would show probable cause. Bourne purposely failed to advise the husband of probable cause to the grand jury as expressly required under IER 6.2, 6.6, 6.8. Reused Grand Jurors He right to ask questions, there are blanks, blocked out parts in audio, but he admits a Turner and to ask that question and without not to answer in transcript. Indictment is not properly founded, signed, endorsed, and it appears they were not properly impeached, and may be out of their terms of service, you see in the transcript when Bourne "had contact with attack one juror during deliberation, on advice of the actual lawyer as a witness spoke to him about knowing Mr Hawkins, that was a juror. The transcript, Indictment is another "hidden" document not presented to Mr Hawkins. Bourne purposely manipulated the grand jury, because as Hawkins found out later of trial, about of the jurors intimidated Mr. Hawkins, they intimidated another man in a photo line up. No prints, No bait money, no other evidence. The only testimony was Det Smith's unlawfully testimony under 6th, coercion, and one fellow who was later to find out had withheld she was showed a picture of Mr Hawkins' prior, told he lost weight, hair, as you can hear in transcript. She also had direct contact with Det Smith and Det Smith's also gave her fraudulent information, to aid in her testimony. No other material evidence exists.

Bourne and Bennetts have systematically, habitually solicited perjured testimony by furnishing the witnesses with known fraudulent reports, evidence, filing such evidence with the court as true, violating Idaho code.

It is a requirement that can not be deemed to be satisfied by mere notice and hearing if a state has contrived to conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through ~~the~~ a deliberate deception of court and jury by the presentation of testimony known to be perjured. Such a contrivance by a state to procure the conviction and imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by intimidation. Brady v State of Maryland ... In Pyle v. Kansas 317 U.S. 213, 215, 216, 63, Sct. 177, 178, 87 L. Ed. 214, we phrased the rule in broader terms. "Petitioner's papers are ineptly drawn, but they do set forth ~~that~~ allegations that his imprisonment resulted from perjured testimony, knowingly used by the state authorities to obtain his conviction, and from the deliberate suppression by those same authorities of evidence favorable to him. These allegations sufficiently charge a deprivation of rights guaranteed by the Federal Constitution, and, if proven, would entitle petitioner to release from his present custody." Mooney v. Holohan 294 U.S. 103, 55, Sct 340, 79, L. Ed. 791 The third circuit in Baldi case construed that statement in Pyle v. Kansas to mean that the "Suppression of evidence favorable" to the accused was itself sufficient to amount to a denial of due process. 195 F.2d, at 820 In Napue v. Illinois 360 U.S. 264, 269, 79 Sct. 1173, 3 L. Ed. 2d 1217, we extended the test formulated in Mooney v. Holohan when we said, "The same result obtains when the state, although not soliciting false evidence, allows it to go uncorrected when it appears".

The state, through and by Roger Bourne and Jon Bennetts knowingly purposeful, malicious, deliberate acts, form a pattern of Prosecutorial Misconduct that directly impacted Mr Hawkins in not one but five cases ~~all~~ CV-CP 0617231 Bourne fraudulently filed fake reports, solicited knowingly false statement, unlawfully kidnapped children, denied parental rights, knowingly gained a decision of the court that he knew had no basis in fact or law. Traumatizing children and causing Mr Hawkins to "say anything to get them back" coerced statements, testimony, for 18 months. Bourne had full control of custody of Mr Hawkins children from Sept 14th 2006 through Feb 18th 2008, at the very same time Bourne had full control of Mr Hawkins custody, Sept 1st ~~through~~ 2006 through Mr Hawkins Trial, January 11th 2008. Bourne is on record with Mr Hawkins and the court as to Bourne's custody of Mr Hawkins children at least three times. Twice prior to trial including when the court asked if Bourne was going to call the children, Bourne said, I don't think so. Yet during trial, before the jury, Bourne denied he had custody, then just 10 minutes later when jury was removed, Bourne admitted again to the court he had them. Bourne never corrected his statement before the jury, which damaged Mr. Hawkins credibility before the jury - Audio obtained from Idaho Dept of Health and welfare taken in an administrative internal hearing proves Bourne ordered them to be taken and caused severe trauma to Mr Hawkins and his children, all without any basis in fact or law. Bourne supervised, controlled, manufactured fraudulent reports, testimony, with absolutely no basis in fact or law. Kidnappings.

Deliberate prosecutorial misconduct "for the prosecutor is guilty of misconduct when he deliberately suppresses evidence that is clearly relevant and favorable to the defense, regardless, once again, of whether the evidence relates directly to testimony given in the course of the government's case!"

In Hawkins, Roger Bourne and Jan Bennetts for the State of Idaho, knowingly, willfully, deliberately solicited false testimony, evidence, admitted it into the Court record and hiding it, allowed it to go uncorrected.

In *Mooney v Holohan* 294 U.S. 103, 55 S.Ct. 340, 79 L.Ed. 791, "the undisclosed evidence demonstrates that the prosecution's case includes perjured testimony and that the prosecution knew..." "the Court has consistently held that a conviction obtained by the knowing use of perjured testimony is fundamentally unfair, and must be set aside"... "which was knowingly used by the prosecuting authorities in order to obtain that conviction, and also that these authorities deliberately suppressed evidence which would have impeached and refuted the testimony thus given against him." The Court held that such allegations, if true would establish such fundamental unfairness as to justify a collateral attack on petitioner's conviction. "It is a requirement that cannot be deemed to be ~~sat~~ satisfied by mere notice and hearing if a state has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury ~~pro~~ by the presentation of testimony known to be perjured. Such a contrivance by a state to procure the conviction and imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by intimidation." *Id* at 112 55 S.Ct. 342. "In *Mooney*, the court had been primarily concerned with the willful misbehavior of the prosecutor." "The petitioner was denied due process of law by the states suppression of evidence before his trial began. The proceedings must commence again from the stage at which the petitioner was overreached. The denial of due process of law vitiated the verdict and the sentence." *Rogers v Richmond* 365 U.S. 534, 545, 81 S.Ct. 735, 5 L.Ed. 2d 760. The verdict is not saved because other competent evidence would support it. "its suppression should be treated in the same manner as if there had been a specific request for discovery. *United States v Miller* 499 F.2d at 744 *United States v Morell* 524 F.2d at 553

Hawkins charges that the State of Idaho holds him in confinement without due process of law in violation of the 5th and 14th amendments to the Constitution of the United States. He further charges his 1st amendment freedom of speech, 5th amendment equal protection, double jeopardy, 8th amendment reasonable bail, cruel and unusual, and 14th amendment equal protection rights are violated under the United States Constitution. The following grounds for these charges are as follows:

Without the states deliberate unlawful acts, the defendant, would not have been found guilty and his liberty been taken from him. Roger Bourne Ada County Chief deputy Prosecutor and Jan Bennetts Ada County deputy Prosecutor not only have conspired to solicit false testimony, knowingly so, but tampered with, manufactured, suppressed, and hid evidence that directly disproved, refuted, impeached the

the states own testimony, evidence, deliberately misleading, deceiving, creating a perjured false instrument,

"The state cannot convict a person with testimony known to be false or allow the testimony to go uncorrected." State v Wheeler 148 Idaho 364 Ct of App. No. 35194

Roger Bourne, Jan Bennetts is proven to have fraudulently took Hawkins children in CX-CP-0617231 first creating a fraudulent record, reports to Kidnapp Hawkins Children to coerce statements from Hawkins, then we have absolute proof of Bourne and Bennetts deliberately, knowingly altering, destroying, falsifying, and fraudulently producing official record to the court in CR-FE-2007-5 Competency hearing on Nov. 12th 2010 again in Bourne and Bennetts closing arguments Nov. 22nd 2010 again to the Supreme Court of Idaho, deliberately deceiving the court with perjury and fraudulent instruments of record, now still in the district court, perpetrating this criminal fraud uncorrected. Yet Bourne and Bennetts own discovery in trial prove they have lied and have continued a pattern of criminal fraud, false public record since atleast August 2006 in Hawkins. The states own discovery in CRFE-2007-5 in 2006, 2007, 2008, has Darcy speaking with no less than five different law enforcement agencies, on audio, in written reports stating she had know of Hawkins connection to, and working with for, CIA for over 15 years (fifteen years). Goes into detail as to trucks, vans, men, names of CIA, planes landing in remote locations that meet "only" Hawkins, then fly off, etc... In Oregon reports, Idaho reports, Colorado reports, even a FBI report months later where Darcy makes same statement about Nigel, Kuncy, CIA etc... all in the very court record that Judge McLaughlin stated he had read atleast twice. In 2007 the court asked Bourne to "give him everything" regarding the case file in CR-FE-2007-5.

"Simply placing the 2007 discovery in Hawkins on one end of the table and the evidence from the Nov. 12th 2010 Competency hearing and Bourne and Bennetts closing written arguments from Nov 22nd 2010 on the other end, comparing them, will prove the worst case of prosecutorial misconduct and fraud ever perpetrated on a defendant and the Idaho Court system in Idaho history, and possibly the nation". The entire case has denied Hawkins all of his constitutional rights by Bourne and Bennetts violating state and federal law, civil and criminal codes at every turn.

Denied preliminary hearing, reset six times, before acting in bad faith, forum shopping to Grand Jury because Bourne, Bennetts, did, and do not have probable cause evidence to gain a indictment much less a conviction without violating criminal law, taking Hawkins children, coercing statements. Det Dave Smiths testimony is again a violation of Hawkins 6th amendment and 14th due process. Bourne and Bennetts had no part money, no tellers picking Hawkins out of the photo line up. In fact the tellers picked another man in the line up. No other evidence, no probable cause. Bourne and Bennetts unlawfully merged one count of bank robbery with a unlawful admission with a second count without an admission, fraudulently creating guilt where there was none. Perjudicial, unfair,

Rogers v Richmond 365 U.S. 534, 81 S.Ct. 735, 5 L.Ed 2d 760

"Convictions following admission of involuntary confessions cannot stand, regardless of trustworthiness of the confession." "A state must establish guilt by evidence independently and freely secured, and may not by coercion prove its charge against the accused out of his own mouth."

This act violated the 14th amendment's due process right under United States Constitution.

In Rogers case coercion was found when a police officer, official of the department picked up a phone and threatened to have Rogers wife arrested and brought to jail. Rogers then made a confession, which the United States Supreme Court ruled was a violation of Rogers rights of "Constitutional dimension" and Rogers had been unconstitutionally tried and "conviction was vitiated by error".

In Hawkins we have absolute proof by way of a internal administrative hearing taken under oath in CV-CP-0617231 and CV-SP-0704390, Pig Dugsty chaired with Det Lemke Ander and L.S. Mr. Heidi Gargas who testified under oath that the children were never in any harm or danger in the home, no danger around the home, infant stated the children were not in any danger from anyone within the state, no abuse, neglect, or abandonment. Clean, healthy, well cared for. No danger of serious bodily injury or any injury or danger whatsoever. Asked if Hawkins had ever abused them, Ander and Gargas said "No". The reports to take them were false and fraudulent. The children were taken unlawfully against the laws of Idaho and the Federal government just two days after Hawkins refused to waive his preliminary hearing on Sept 12th 2006. Children were then taken on Sept 14th 2006 by direction of Roger Bourne and held illegally for the exact time period of Hawkins CR-FE-2007-5 case. Numerous times Hawkins is begging that the children be returned, in video, audio, written court record. Bourne used this to coerce statements of guilt from Hawkins in an attempt to get his children back. Court documents prove this. The hearing proved Bourne, Bennetts, Ada County and the state Kidnapped the children under Idaho Code and perpetrated a fraud upon the defendant Hawkins in admitting known falsified documents, evidence under fraud code to gain a conviction and set the same fraudulent documents to the United States Government to gain federal funding for their unlawful custody of Hawkins children. This proves a pattern of fraud; falsification of official government documents to gain conviction funds by Bourne, Bennetts in all of Hawkins cases, prosecuted by Bourne and Bennetts. MO600093, CR-FE-2007-5, CV-CP-0617231, CV-SP-0704390, Nov 12th 2010 Competency hearing, Idaho Supreme Court Docket 38532 and now back in district, continuing to perpetrate a fraud without correcting their criminal activity.

State v Wheeler 148 Idaho 364 233 P.3d 1286 Idaho App April 9 2010 "Duties and obligations of prosecuting attorneys" "...use of false or perjured testimony" "...Duty to correct false or perjured testimony" "A defendant establishes a Napue violation based on prosecutors knowing use of false testimony or failure to correct false"...

State v Ellington 151 Idaho 53, 253, P.3d 727 May 27 2011 No ~~2011~~ 33843

A conviction obtained by knowing use of perjured testimony is fundamentally unfair as a violation of due process U.S.C.A. Const. Amend. 14th.

Buckley v Fitzsimmons 509 U.S. 259, 113 S.Ct 2606, 125 L.Ed.2d 209 61 USLW 4713 under 42 U.S.C 1983 officials. Prosecutors have qualified immunity only if "their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." In Hawkins, you have a continuous pattern of criminal conduct by Bourne and Bennett's that are disturbing criminal code violations as well as constitutional violations. Both Bourne and Bennett's are proven by court record to have conspired to alter, manufacture fraudulent falsified official documents to obtain rulings in favor of the state, depriving Hawkins of life liberty, due process, constitutional rights.

"If a prosecutor like Bourne and Bennett's are allowed to alter, destroy, produce, manufacture documents, evidence, suppressing, soliciting perjured testimony by issuing fraudulent documents evidence, the defendant can never be afforded his constitutional rights because the prosecutor will continue producing fraudulent evidence to deny and block any defense."

"A corrupt Prosecutor, can lie habitually, manufacture evidence, hide evidence, because he is given immunity for most of his official duties, this breeds a destructive environment for Justice"

"No confession or admission of an accused is admissible in evidence unless made freely and voluntarily and not under the influence of promises or threats,"

In Hawkins his children were unlawfully removed, traumatized both children and Hawkins was denied all contact with his children, begging for them to be given back Hawkins contemplated suicide nightly, tormented by the states unlawful act that violated Idaho Criminal code of Kidnapping, Fraud, falsifying official records. Hawkins suffers from torment, Post traumatic stress, untreated to this day. Hawkins own discovery produced in 2007 by Bourne and Bennett's shows Hawkins was promised his children back and release. The official jail record "Kite" states SA Mace and Det Dave Smith made "promises under fake pretenses for statements".

The Court transcript from the Competency hearing Nov 12th 2010 has the state, by Bourne and Bennetts asking questions to the "evidence" Bourne and Bennetts provided. The "only evidence" provided to the Court and Estess, Sample. There are many points that are proven false, perjured, suppressed, hidden, but I will focus on these as example:

Bourne, Bennetts, repeatedly ask if they saw the "CIA" in any documentation, conversations, etc... to which Estess and Sample said no, then the state asked them, would you expect that as to a person that is delusional, they said no. Estess, Sample, said, it would permeate every part of Hawkins life, everyone that came into contact with Hawkins would hear about it. It would not just come up here and there. Estess and Sample were asked by Bourne and Bennetts, if Hawkins wife Darry had ever heard of Hawkins mention the CIA, Estess said no. Estess said Hawkins thinks he is smart, but did not know he had to be consistent in all conversations about CIA, that it would be in every conversation, and Hawkins was faking. Estess further said he spoke to Darry and she never heard about the CIA. Notes: Estess never tested Hawkins ever, never any interviews.

The important point to the above is this; Roger Bourne and Jon Bennetts were the only ones giving evidence to Estess and Sample, and both Estess and Sample testified for the state. The defense never admitted any evidence nor did they have any doctor testify. Thereby Bourne Bennetts manufactured, presented, directed, falsified, asked and got the ~~provisions~~ answers they wanted, even though they knew it was a lie, because they removed the evidence.

Bourne and Bennetts were the same prosecutors in the trial in Jan 7th thru 11th 2008 and produced discovery in that case, the same case that was vacated and held the competency hearing on Nov. 12th 2010, CR-FE-2007-5 and in that very discovery, the very discovery that was in the case file they gave to the defense, the very case file they had to use in the Nov 12th 2010 Competency hearing. In that file, he states discovery the very case Bourne and Bennetts argued at trial they produced:

Darry, Hawkins wife is on audio in Oregon stating, CIA, names of people, that she has known of for over 15 years. Darry, months later, Denver Colorado, interviewed FBI Clampa house she states again, CIA, Nigel, Kenny, etc knew of them for over 15 years, Darry goes into detail about places landing, meeting Hawkins in remote locations, then flying off. Trucks, vans, U.S. Government men in uniforms etc. Prior to Hawkins arrest, discovery shows conversations with Hawkins where he speaks of CIA to George Kelley over cellphone. Hawkins cellphone is documented as having phone calls from CIA, FBI, Israeli Embassy calling Hawkins and he calling them. Hawkins defense requested discovery prior to trial as to Hawkins children interviews, which have children stating to Bourne

investigators, deputy Ada County Sheriff Terrica Archer, Boise City Police Angie Munson etc... that their Daddy "Hawkins" was CIA, of very high rank. Bourne, Bennetts, deny this discovery request by the defense prior to trial.

Bourne, Bennetts and Sample, Estes as to Delusional Disorder Grandiose Persecutory, as diagnosed by Sample just weeks prior, and was 100% convinced of Hawkins not faking and knew the symptoms, now after meeting with Bourne, Estes, he "forgets" what the symptoms are. Bourne, Bennetts, have argued thousands of cases involving the symptoms of mental illness. They have used the American Psychiatric Association's Diagnostic Service Manual called DSM IV TR of which has the symptoms of the illness, and knew what they are along with Estes and Sample. Bourne, Bennetts deliberately solicited knowingly false testimony that is directly proven to be a lie in DSM IV TR. Symptoms are unchanging, and not open for opinion according to Dr. Claude Robert Cloninger MD, one of the worlds top Psychiatrists, Psychologists, Geriatricists, PhD, MD at Prestigious Washington University. Cloninger has testified before the Ninth Circuit Court of Appeals in U.S. v. Ruiz Garcia as to the same illness, and has some of the symptoms in the court decision, where they sided unanimously with Cloninger's opinion. Cloninger, author of hundreds of articles and books states in an email to Hawkins defense that the symptoms stated by Estes, Sample, Bourne, Bennetts at the Nov. 12th hearing 2010 are "completely wrong". He Cloninger points to DSM IV TR. It states that a person with such a illness as Sample originally diagnosed Hawkins with does not speak of the "CIA" all the time, only when something triggers it, or it comes up in conversation, that people with the illness can be high functioning, hold down jobs, you may not ever know about their delusion, it would not permeate all aspects of their life, there would not be a consistency in all that they come into contact with.

Bourne, Bennetts knew this, knew it was in the states discovery, purposely blocked defense requests for discovery supporting CIA claim. Deliberately hid, suppressed discovery they had previously issued in the same case with Hawkins, now, they lied, admitted, solicited perjured testimony they had engineered to obtain a ruling to deny Hawkins a new trial as ordered by the States Court of Appeals. Fraudulently creating a lie, false record they used to then gain a ruling as to retroactive competency so they could, they send that fraudulent "knowingly" fraudulent public record to the Idaho Supreme Court in a I.A.R. 12 Interrogatory to gain a ruling to override the Court of Appeals ruling requiring a new trial if found competent. This is deliberate, intentional, criminal fraudulent prosecutorial misconduct resulting in loss of liberty, deliberate delay, forum shopping, intentional harassment, malicious denial of Constitutional rights, creating a false instrument of record.

Bourne, Bennetts, created an unfairly prejudicial advantage against Hawkins, controlling all evidence, questions, answers, denying, suppressing, hiding, discovery, evidence to create, knowingly, willfully, a fraudulent truth through a Court record, denying justice. Estes, Sample, both under contract with Ada County, and the State committed perjured testimony through and by Bourne and Bennetts solicitation of the fraudulent misrepresentation of facts. Hawkins, due to Bourne and Bennetts malicious, deliberate, purposeful acts has been denied a quick and speedy trial, denied the Court of Appeals vacated order of a new trial, and as of this date sat in the Ada County Jail in a 8x10 cell for over 3 years awaiting justice, denied by Bourne and Bennetts fraud and violating Idaho Criminal codes.

Jan 7th through 11th 2008 Hawkins trial. Hawkins correctly, gained subpoenas back from Ada County Clerk at the court, with seal in place, delivered them to Ada County Sheriff's Dept Civil division for service. They said they would serve them, and Judge McLaughlin had approved of the defense subpoena list. At time of trial, none showed, they were called by the bailiff, they said no one is there. Hawkins, requested, moved for continuance, the Judge McLaughlin denied. Bourne, Bennetts said nothing, because they knew a secret, a secret that would not be known until approx 11 days after trial, after the jury gave their verdict. The secret was, Bourne, Bennetts had called Ada County Sheriff's Civil division, and told them not to serve the defense subpoenas, one to deny Hawkins Constitutional right under the 6th Amendment right to witness, two to gain an unfairly prejudicial advantage, and three because Raper Bourne's close friend and fellow Melchizedek Priest of the Mormon church was Hawkins' star witness to negate Hawkins' guilt. Bourne, Bennetts, again, hiding, suppressing, denying evidence, testimony. Again, manipulating what the court hears, and the jury knows. Prosecutorial misconduct.

During 7th thru 11th 2008 trial Bourne, denied he, the State had custody of Hawkins' 3 children in front of the jury, when Hawkins claimed Bourne, State had custody, legal custody. This created a credibility issue for Hawkins, appearing to make Hawkins to be a liar, when in fact, it was Bourne, who was lying in court, before the jury. Bourne, the State did have custody of Hawkins' children, unlawfully.

Hawkins having been denied all witnesses at trial, also had been denied copies of discovery to keep prior to trial. Hawkins asked for copies of discovery on Jan 8th 2008 in the first minutes of the trial. Judge McLaughlin admonished Hawkins for asking for discovery, but a copy of discovery was provided, during the second day of trial, which is a constitutional violation, but again, Bourne, the Court, manipulated what Hawkins got and when, which meant, they controlled what the evidence was, that Hawkins could present to the jury.

Defendant therefore asks this to be set for oral argument with notice so that witnesses can be called if the court does not grant the motion to dismiss based on all defense motions, filings before the court and the fact the court is fully aware of the facts found in its copy of CR-FE-2007-5 that the defense and prosecution have both filed motions to take Judicial notice of all "everything" contained in the case.

Dated this 29th day of June 2013

F. R. Hawkins
Farr R Hawkins

JUL 10 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

1589
HS
1/17 Foren R Hawkins
Ada County Jail
7210 Barometer
Boise Id 83704

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

Case No. CR-FE-2007-5

Foren R Hawkins
Defendant

Motion for Release to House Arrest with ankle monitor
do to Counties reckless endangerment to defendants health
failure to provide local standard of medical care.
Medical release to obtain access to medical care.

Comes Along Defendant, Pro Se, Foren R Hawkins, motioning the court as to the charges

1. Defendant will stay under house arrest within ada county with ankle monitor
2. Defendant will gain permission to go gain medical treatment at his expense in Ada County.
3. Defendant suffers from:

- A. High blood pressure, chest pain, sweats, jaw pain, dizziness etc. heart symptoms.
- B. Gout due to 27 months black boxed belly chained during exercise, unable to exercise.
- C. Edema due to chained, no exercise, severely out of shape, over 3 years in jail 8x10.
- D. PTSD due to Counties unkindful act of taking and traumatizing children and defendant.
- E. EEG in past have produced abnormal waveknigh and voltage, left temporal lobe.
- F. Eyesight damaged due to fluorescent lighting for 3 years 20 hours a day, and 3 years of only looking at 8x10 walls, damaging eyes for no far sight focus.
- G. Teeth in extreme need of care. Ground broken teeth, paid \$5.00 to see dentist, dentist said he did not have proper supplies to fix it, ground, did not refund money.
- H. Balance lost due to nerve damage, fall, lower back damaged, untreated ground.
- I. Circulation is bad, due to back damage and forced to sleep on mat, not mattress. too much mat for 3 years has caused severe hip joint, shoulder, back pain.
- J. Defendant has tremors in extremities at times, uncontrollable.
- K. Upper stomach pain, discomfort.
- L. Defendant receives no mental health counseling for Counties PTSD do to their dehumanization!

M. Defendant requires no physical therapy from counties treatment of defendant.

O. Defendant had heart, blood pressure check Dec 2012, 210, 210, over 98, switched arms, 186 over 94, so medical took that. Said it is high, we will check in a week. Never checked since Dec 2012.

P. Constant noise has caused hearing loss, yelling, banging for hours, days, prisoners pray staff do nothing, has cause stress, mental anguish for 3 years.

4. Numerous Vets, prisoners Ada County provided no medical services after defendant slipped and fell down wet floor. Defendant layed in his bunk for 3 days, never moved him to medical, could not eat, deputies just rolled in a mop bucket to urinate in as he could not get out of bed, extremely cruel and unusual.

5. Defendant must be moved to house arrest as he has habitually ~~been~~ been denied the standard of medical care offered to all citizens in Boise, outside of Ada County jail.

6. After unknown causes, symptoms.

Therefore defendant requires removal to house arrest and seek proper medical care.

Ada County has committed medical malpractice, Nov. 12th 2010 hearing proves malpractice medical staff is biased, prejudiced, can not provide proper care.

Defendant requires a third party medical, outside of Ada County jail, due to Ada Counties continued failure to provide medical standard, where they have had over 3 years to provide standard.

Immediate removal for medical hardship - set for oral argument if required, otherwise release to house arrest.

Dated this 3rd day of July 2013

ARH
Foran R. Hauler

JUL 10 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

Faron R. Hawkins
Ada County Jail
7216 Barrister
Boise ID 83704

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho Plaintiff v Faron R. Hawkins Defendant	} Case No. CR-FE-2007-5 Defenses Request for and Motion for Rule 16 Discovery Including All Brady Material
---	---

Comes Now Defendant Faron R. Hawkins, Pro Se, in Motion and Request for Rule 16
Discovery and all exculpatory Brady material request as to the following:

1. CV-CP-0617321 Case file including but not limited to all audio and video interviews
of Hawkins children CARES interviews 8-23-06 to 11-13-06 # 1320851, 1321533, 1321540,
1332598, 1332599, and all other unknown for the defense to show fraudulent falsified official record,
as children spoke about their knowing "daddy" used to cover for CIA, DIA, that Dorey knew, as
well as illegal procedures, acts, committed, fraudulent reports, unlawful seizure of property, children,
trauma, and when exactly did Ada County and State know no abuse, neglect, abandonment existed.
And all other evidence contained showing Barone, Bennetts, ada County's acts done illegally to coerce
testimony from Hawkins by the unlawful act of kidnapping his children without subject matter
jurisdiction, without any basis in fact or law, holding them, traumatizing them and Hawkins
for approx 18 months unlawfully to gain an unfairly prejudicial advantage through coercion,
trauma, duress in an attempt and belief Hawkins would get his children returned.
Brady v Maryland 373 U.S. 83, 87, 83, S Ct, 1194 U.S. v Agurs

2. Audio CR-FE-2007-5, S20060700, S20060701, (A)(B)(C)(D), S20060702, S20060703
3. Feb 2007 Audio Peg Doughty, Christi Collier, Jennica Archer, Heidi Guites, Administrative hearing testimony
under oath, No subject matter jurisdiction, falsified reports in CV-CP-0617321 Transcript & Tapes.
Andrew Ellis, Barone Supervisor, Ada County Prosecutor's unlawfully prosecuted all case files,

4. All case files, motions, evidence, transcripts, orders, briefs, hearings, documents all Brady material known and unknown to defense that falls under Brady,

5. All discovery in the CR-FE-2007-5 Case from 2006 to present 2013 July 8th.

Request all discovery delayed immediately as defense must prepare for July 17th 2013 hearing and August 29th 2013 hearing.

State has failed to provide even one document to defense.

All material must be sent directly from Ada County Prosecutor to defendant, no discovery or documents is to go through Ada County Public defenders as the defense does not want the prosecutor to have the excuse that they provided it to Public defenders, so they can claim it is Public defenders fault defense did not receive.

This is important as it is clear Prosecutors have falsified official record.

Motion for Court order to require discovery due to limited time line and request from Ada County Prosecutor.

Dated this 3rd day of July 2013

ARH/m
Farrell Howlin

Farou R. Hawkins
Ada County Jail
7216 Barrister
 Boise Id 83704

JUL 10 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff
v
Farou R. Hawkins
Defendant

Case No. CR-FE-2007-5

Motion for a Motion Hearing
to
hear all unheard Motions

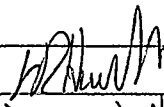
Comes Now Defendant, Farou R. Hawkins, Pro Se and Motions this Court for a Motion hearing
on all unheard motions

Defendant asks this court to set a hearing to hear all un-heard motions before the court
including but not limited to:

1. Dismiss for 180 day Quick and Speedy trial violation August 29th 2006 to Feb 25th 2007.
2. Dismiss for Court's failure to have Subject matter Jurisdiction, invalid indictment.
3. Dismiss for Prosecutorial Misconduct Fraud, falsifying official record, etc...
4. Strike Competency hearing and retro active Competency.
5. Motion for Court to take Judicial Notice.
6. Motion for Disqualification of Judge for Cause as he will be called as a witness
7. All other before the court

Set with notice to defense as he must prepare and may require subpoena.

Dated this 3rd day of July 2013


Farou R. Hawkins

184
185
187
188

NO. _____
A.M. _____ P.M. _____

JUL 12 2013

GREG H. BOWER
Ada County Prosecuting Attorney

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

Roger Bourne
Jan M. Bennetts
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
Facsimile: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

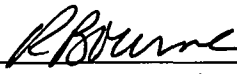
THE STATE OF IDAHO,)	
	)	Case No. CR-FE-2007-0000005
Plaintiff,)	
	)	MOTION TO DISMISS
vs.	)	COMPLAINT FILED JULY 3,
	)	2013
FARON RAYMOND HAWKINS,)	
)	
Defendant.)	
_____)	

COMES NOW, Roger Bourne and Jan M. Bennetts, Deputy Prosecuting Attorneys, in and for the County of Ada, State of Idaho, and moves to dismiss the complaint Mr. Hawkins filed on July 3, 2013. The Defendant's complaint lacks probable cause. There is absolutely no evidence to support his claims against the handling prosecutors in this case. Rather, the Defendant makes

bald assertions and conclusory statements. Accordingly, because the Defendant's claims are completely without merit, the State moves to dismiss the complaint.

DATED this 10 day of July 2013.

GREG H. BOWER
Ada County Prosecuting Attorney

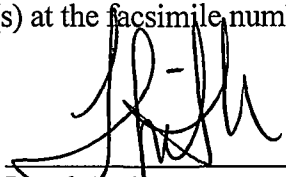

By: Jan M. Bennetts/Roger Bourne
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 10th day of July 2013, I caused to be served, a true and correct copy of the foregoing **Motion to Dismiss Complaint Filed July 3, 2013** upon the individual(s) named below in the manner noted:

Name and address: Faron Hawkins, c/o Ada County Jail, 7200 Barrister, Boise, Idaho 83704

- ☒ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____


Legal Assistant

JUL 12 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Roger Bourne
Jan M. Bennetts
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
Facsimile: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2007-0000005
)	
vs.	)	STATE'S RESPONSE TO PRO
	)	SE DEFENDANT HAWKINS
FARON RAYMOND HAWKINS,	)	MOTIONS FILED JULY 3, 2013
)	
Defendant.)	
_____)	

COMES NOW, Roger Bourne and Jan M. Bennetts, Deputy Prosecuting Attorneys, in and for the County of Ada, State of Idaho, and hereby responds to the Defendant's Motions filed on July 3, 2013. The State is responding to the approximately 50 pages of the Defendant's motions in this single response. Additionally, several of the pleadings are duplicative of other pleadings and therefore, the State will only address the issue once rather than multiple times for duplicative issues.

The State requests that this Court deny the Defendant's Motion to be Transported Out of Ada and Canyon Counties. Also the State requests that this Court deny the Defendant's Motion to be Released to House Arrest. The Defendant has shown no basis to support this claim and these motions should be dismissed. Further, his claims regarding treatment in the jail are not properly before this Court. If the Defendant claims mistreatment in the jail, he can file either a habeas corpus or a § 1983 claim.

The State requests that this Court deny the Defendant's Motion to Dismiss this case. Idaho Criminal Rule 48 provides as follows:

[t]he court, on notice to all parties, may dismiss a criminal action upon its own motion or upon motion of any party upon either of the following grounds:

- (1) For unnecessary delay in presenting the charge to the grand jury or if an information is not filed within the time period prescribed by Rule 7(f) of these rules, or for unnecessary delay in bringing the defendant to trial, or
- (2) For any other reason, the court concludes that such dismissal will serve the ends of justice and the effective administration of the court's business.

As this Court is well aware, the Defendant has been convicted by a jury. There are no grounds for this Court to dismiss this case pursuant to I.C.R. 48. First, there has been no unnecessary delay in presenting this case to a grand jury. An Ada County Grand Jury indicted the Defendant on January 2, 2007. An Ada County Jury convicted the Defendant of two counts of Robbery in January 2008. There is no basis to dismiss this case pursuant to I.C.R. 48(1).

Second, there is no basis to dismiss this case pursuant to I.C.R. 48(2). Dismissal of this case would not serve the ends of justice. On appeal, the Idaho Court of Appeals vacated the conviction and remanded the case to this Court for a competency determination and new trial if the Defendant were found to be competent. Upon remand, after hearing testimony, this Court found that the Defendant was currently competent and found that he was competent at the time

he was tried in January 2008. This Court found that the law of the case required this Court to retry the Defendant. The State timely filed an interlocutory appeal and the Idaho Supreme Court held that this Court was not prohibited from making a retroactive determination of the Defendant's competency.

Therefore, if this Court determines that the Defendant was competent to stand trial in January 2008, the Defendant's convictions for robbery stand. Accordingly, justice does not require this Court to dismiss this case pursuant to I.C.R. 48(2).

The Defendant also argues that his speedy trial rights were violated. The evidence is contrary to his assertion. The Defendant was arraigned on January 12, 2007, after he was indicted, which would mean his right to a speedy trial would have run on July 12, 2007. The Defendant waived his right to a speedy trial on April 13, 2007, which was well within the 6-month period. (Trial Transcript at 55.)¹

Finally, the Defendant once again makes claims of misconduct against the handling prosecutors, which are completely untrue and unsupported by any evidence.

The Defendant next moves to Strike Competency Hearing and Rulings resulting from that hearing. This Court should deny this motion. This Defendant was represented by counsel at the Competency Hearing. His attorney cross-examined witnesses. There is no basis to strike the hearing or this Court's rulings.

The Defendant next moves this Court to take Judicial Notice of the Prior Record in this case and he argues that this Court is a witness. It is the State's understanding that this Court has already granted the State's Motion to Take Judicial Notice of the Prior Record in this case. This Court is not a witness in this case. The record speaks for itself and there is no need for this Court to be called as a witness.

¹ "Trial Transcript" refers to prior proceedings pretrial, trial and post-trial.

The Defendant next files a number of motions regarding issues that were previously litigated at the time of his trial. He raises issues regarding his trial subpoenas, discovery and other trial issues. The Defendant had a full and fair opportunity to address all of these trial issues not only during the pretrial and trial proceedings, but on appeal. It is inappropriate for the Defendant to relitigate all of the issues that were fully addressed at the time of trial and that this Court has previously ruled upon.

The Defendant also moves to dismiss this case because this Court failed to provide him counsel after the November 12, 2010, competency hearing. The State's file notes reflect that the Court found Mr. Sutton's affidavit in support of his motion to withdraw credible and granted that motion to withdraw on December 8, 2010. This Court appointed the public defender that same day. Thereafter, on December 15, 2010, the Defendant himself chose to go pro se. This Court did not fail to provide him counsel. Therefore, this Court should deny the motion to dismiss.

The Defendant next moves to dismiss this case for lack of subject matter jurisdiction. The Defendant was properly indicted by an Ada County Grand Jury and he is properly before this Court. This Court should deny the Defendant's motion to dismiss for lack of subject matter jurisdiction.

The Defendant moves to dismiss this case based upon his claims of prosecutorial misconduct. As previously stated in this Response, the State denies that there has been any prosecutorial misconduct in the handling of this case. The Defendant makes conclusory statements and bald assertions with no evidence in support of his claims. The Defendant is again attempting to relitigate issues that this Court has previously addressed during the prior proceedings.

The Defendant raises discovery issues. He raised discovery issues during the prior proceedings and this Court addressed that issue. As one example, at a hearing on April 13, 2007, this Court heard this issue. As this Court will recall, the Defendant had the Public Defender's Office representing him at times and at times he was pro se.

This Court stated at the April 13, 2007, hearing that this Court had reviewed the unredacted and the redacted police reports and pleadings along with many other documents. (Trial Transcript at 21-22.)

Mr. Bourne stated to the Court during the April 13, 2007, hearing that the State's investigators had gone to the jail to meet with the Defendant (which was the fifth or sixth day our investigators had spent with the Defendant over the past six weeks or so) the day before. The investigator went to the jail to ensure that the Defendant was reviewing all of the discovery. The investigator would sit in a room so that the Defendant could review all of the discovery, both written materials and CDs, DVDs, and audios. (Trial Transcript at 23.) Mr. Bourne states: "We have thus far let him read or see or listen to all of the material that we have." It should be noted that the jury trial did not occur until January, 2008.

There was further discussion about discovery at this hearing and this Court stated as follows:

Well, at this point, the court is, as far as the court's review of the documentation that has been submitted that the court outlined earlier, the redactions are precisely as the state has represented, and they are not as you have represented. And there is no basis for this court to find that the redactions in their discovery that the court has been presented and reviewed is in violation of Rule 16.

In terms of your being able to prepare a defense and proceed to trial, you have been afforded an opportunity to review the documentation. That's still an ongoing process. And between now and May 7th, certainly, the state has indicated they will continue to give you the opportunity to review those documents.

And I'm not finding, at this point, that there is a basis to issue an order to compel discovery in terms of - - or to provide you with additional discovery in terms of what's been presented to you.

The state has shown good faith in their efforts to give you an opportunity to review the information that they have. They have set forth there that they have disclosed the audiotapes. Those have not been redacted. The fact that a CD has something redacted from it on the surface of the CD is not an issue. It's what's on the CD that has the recordings. And so, that's not only a bad faith request. It - - it's absolutely has no basis in the law, whatsoever.

(Trial Transcript at 27-28.)

There is further discussion about discovery thereafter. The point is that all of the discovery issues were dealt with at the time this case was tried and it is not appropriate to relitigate it now.

The Defendant moves to dismiss the Indictment in several motions based upon prosecutorial misconduct and numerous other allegations. His allegations of misconduct are baseless and without evidentiary support. Many of the allegations are duplicative. The State requests that this Court deny his motion to dismiss the Indictment. The handling prosecutors have not committed prosecutorial misconduct and the motions to dismiss for this reason should be denied.

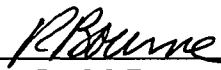
The Defendant moves to dismiss the Indictment because he claims he was unfairly prejudiced during the grand jury proceedings. Again, there is no evidence that there was any error in the grand jury proceedings. This Court should deny this motion to dismiss.

The Defendant next argues that the Indictment should be dismissed because the State violated his Sixth Amendment right to counsel. This issue is couched in terms of a motion to dismiss but is actually a motion to suppress that is clearly untimely. Moreover, on December 13,

2007, this Court already held a suppression hearing in this case and this Court denied the Defendant's motion to suppress. (See Trial Transcript at 216-263.)

DATED this 10th day of July 2013.

GREG H. BOWER
Ada County Prosecuting Attorney

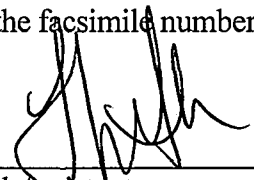

By: Jan M. Bennetts/Roger Bourne
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of July 2013, I caused to be served, a true and correct copy of the foregoing **STATE'S RESPONSE TO PRO SE DEFENDANT HAWKINS MOTIONS FILED JULY 3, 2013** upon the individual(s) named below in the manner noted:

Name and address: Faron Hawkins, c/o Ada County Jail, 7200 Barrister, Boise, Idaho 83704

- ☒ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____


Legal Assistant

FILED 7-15-13, 2013 at 1240pm
Christopher D. Rich, Clerk

By: [Signature]
Deputy

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,
Plaintiff,

vs.

FARON HAWKINS,
Defendant.

Case No. CRFE-07-00005

NOTICE AND ORDER
APPOINTING PUBLIC DEFENDER

TO: The Office of the Ada County Public Defender:

The above named defendant appeared before the Court on the charge of Robbery and requested the aid of counsel as stand-by counsel, and the Court being satisfied that said defendant is a needy person entitled to appointment of counsel;

IT IS HEREBY ORDERED That you are appointed to represent the defendant **as stand-by counsel** until relieved by Court Order.

The case is continued to July 14, 2013 at 4:00 pm for a status conference in the above court. The defendant is:

- (X) In the custody of the Sheriff;
- () Released on Bond;
- () Released on his/her own recognizance;

Date: 7/15/13

[Signature]
MICHAEL MCLAUGHLIN
District Judge

JW

CERTIFICATE OF MAILING

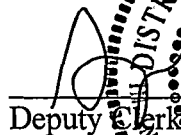
I hereby certify that on this 15th day of July, 2013, I mailed (served) a true and correct copy of the within instrument to:

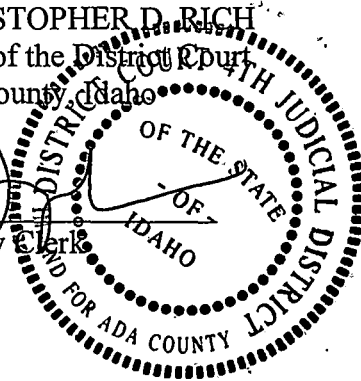
Ada County Public Defender
Interdepartmental Mail

Ada County Prosecuting Attorney
Interdepartmental Mail

Faron Hawkins
Ada County Jail
Boise, ID 83704

CHRISTOPHER D. RICH
Clerk of the District Court
Ada County, Idaho


Deputy Clerk



189

NO. _____ FILED _____
A.M. _____ P.M. 2

JUL 16 2013

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Roger Bourne
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702-5954
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
FARON RAYMOND HAWKINS,)
)
Defendant.)
_____)

Case No. H0700005
REQUEST FOR DISCOVERY

TO THE ABOVE NAMED DEFENDANT:

PLEASE TAKE NOTICE that the undersigned, pursuant to Rule 16 of the Idaho Criminal Rules, requests Discovery and inspection of the following:

- (1) Documents and Tangible Objects:

Request is hereby made by the prosecution to inspect and copy or photograph books, papers, documents, photographs, videotapes, and audiotapes, tangible objects or copies or portions thereof, which are within the possession, custody or control of the defendant, and which the defendant intends to introduce in evidence at any of the hearings on defendant's motions or at the hearing to determine his retroactive competency.

NR

(2) Reports of Examinations and Tests:

The prosecution hereby requests the defendant to permit the State to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, within the possession or control of the defendant, which the defendant intends to introduce in evidence at any of the hearings on defendant's motions or at the hearing to determine his retroactive competency, which were prepared by a witness whom the defendant intends to introduce in evidence at any of the hearings on defendant's motions or at the hearing to determine his retroactive competency when the results or reports relate to testimony of any of defense witnesses.


(3) Defense Witnesses:

The prosecution requests the defendant to furnish the State with a list of names and addresses of witnesses the defendant intends to call in evidence at any of the hearings on defendant's motions or at the hearing to determine his retroactive competency.

(4) Pursuant to Idaho Code Section 19-519, the State hereby requests that the defendant state in writing within ten (10) days any specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.

DATED this 16th day of July 2013.

GREG H. BOWER
Ada County Prosecuting Attorney

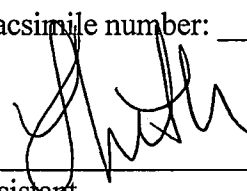
By: 
Roger Bourne
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16 day of July 2013, I caused to be served, a true and correct copy of the foregoing **Request for Discovery** upon the individual(s) named below in the manner noted:

Name and address: Faron Hawkins, c/o Ada County Jail, 7200 Barrister, Boise, Idaho 83704

- ☒ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☒ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____



Legal Assistant

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>4:02:05 PM</u>		CR-FE-2007-00005 Hawkins Status Hearing
<u>4:02:12 PM</u>		Ms. Bennetts here on behalf of the state, Mr. Hawkins present pro-se
<u>4:02:37 PM</u>	Judge	Mr. Hawkins I am giving you a written document outlining the rights to having an attorney, you have expressed your desire to represent yourself. We will get you a copy if you sign it.
<u>4:03:51 PM</u>	Mr. Hawkins	Can I take it with me and sign it later. I don't touch dirty things, I would like to sign it at the cell.
<u>4:04:21 PM</u>	Judge	Reads the document to Mr. Hawkins
<u>4:04:41 PM</u>	Mr. Hawkins	Understands all his rights as read to him by Judge McLaughlin
<u>4:06:12 PM</u>	Judge	I will find that your waiver of counsel is voluntarily made and I will accept that.
<u>4:06:49 PM</u>	Judge	We have a hearing set in August. There was a sole issue to deal with from the supreme court. Now Mr. Hawkins has terminated counsel and there was a serious of motions filed by Mr. Hawkins. Motion for release to House Arrest to ankle monitor. Request for Rule 16 discovery. Motion to hear all heard and unheard motions. Motion to strike retroactive competency ruling. Motion for the court to take judicial notice. CR-FE-07-0005 Take notice for audio cd's. Motion to dismiss the indictment. Motion to take notice of Child Protection case. Motion to strike the 11/12/10 Competency Hearing and ruling due to an abuse of discretion. There was a complaint filed alleging falsification. Motion to be removed from Ada County. Motion for release to house arrest for medical and security reasons. Rule 48 motion to dismiss. Motion to strike the competency hearing. Additional motion to take judicial notice of prior record, judge McLaughlin will be called as a witness in upcoming August hearing. Judicial notice of the January 2008 trial transcripts. Motion to dismiss for abuse of discretion after November 12th hearing. Motion to dismiss for lack of substance jurisdiction. Motion to take judicial notice and failure to grant a quick and speedy trial. Motion to dismiss the indictment. 6th Amendment right to counsel.
<u>4:13:42 PM</u>	Mr. Hawkins	You are missing a few
<u>4:13:49 PM</u>	Judge	Reads other motions in file.
<u>4:14:05 PM</u>	Mr. Hawkins	6.2 D
<u>4:14:15 PM</u>	Judge	What I have tried to outline to you sir is that the issue before this court is whether or not you were competent to stand trial in 2008. The other motions will be suspended until this court makes the determination if you were competent to proceed in your trial in 2008. The purpose today was to see if you subpoenaed the doctor?

<u>4:15:25 PM</u>	Mr. Hawkins	I have not received discovery.
<u>4:15:38 PM</u>	Judge	If you want witnesses here you have to subpoena them.
<u>4:15:51 PM</u>	Mr. Hawkins	Lists other witnesses. I have only emailed the psychiatrist. Until I receive discovery I cannot give him what he needs to review. That is standard procedure.
<u>4:16:36 PM</u>	Judge	What do you mean by discovery?
<u>4:16:43 PM</u>	Mr. Hawkins	I have nothing. There was something given to antoehr attorney and that is now evidence.
<u>4:17:04 PM</u>	Judge	Can you be more specific.
<u>4:17:09 PM</u>	Mr. Hawkins	It is in the motion and I want everything
<u>4:17:20 PM</u>	Ms. Bennett's	We provided all the discovery to Mr. Hawkins and counsel the first time around. This is a limited hearing. Lengthy discovery matters that took place in this court prior to trial. I haven't received the request for discovery. I will look at that. He can get all the discovery from Mr. Frederickson which I know he was reviewing because we have discussed it. Retroactive competency is the issue. I am willing to get specific requests in regard to the discovery he is looking for. Not the current issue
<u>4:18:57 PM</u>	Mr. Hawkins	As far as the defense Mr. Frederickson tried for a month
<u>4:19:16 PM</u>	Judge	Have you contacted Mr. Frederickson and asked him for documents?
<u>4:19:31 PM</u>	Mr. Hawkins	He wants it for himself
<u>4:19:39 PM</u>	Judge	Whatever you gave to Mr. Frederickson you need to give to Mr. Hawkins.
<u>4:19:54 PM</u>	Ms. Bennett's	I really don't know what he had originally
<u>4:20:07 PM</u>	Judge	Prepare an order that Mr. Frederickson is to photocopy everything he has and give it to Mr. Hawkins. You can subpoena your witnesses. We are on for the 29th and you are your own lawyer. You will get whatever Mr. Frederickson has and he will be compensated for those costs of copies. You need to be ready to go on the 29th. Do you understand the courts ruling?
<u>4:22:01 PM</u>	Mr. Hawkins	I understand you will not delay the hearing. I understand I need to subpoena my witnesses.
<u>4:22:37 PM</u>	Judge	All the other matters are stayed. The problem I am faced with is that there is a lot of discovery in this case. You maintain that you worked for the CIA and that is all true? That is in your moving papers
<u>4:23:15 PM</u>	Mr. Hawkins	I will not help the prosecution.
<u>4:23:31 PM</u>	Judge	I just want to point out to you that you will have to cross examine the doctors.

<u>4:24:05 PM</u>	Mr. Hawkins	This court does not have subject matter jurisdiction
<u>4:24:18 PM</u>	Judge	We will stay everything else in this matter
<u>4:24:36 PM</u>		I object
<u>4:24:38 PM</u>		Objection noted. We are done.
<u>4:24:46 PM</u>		End of Case
<u>4:24:46 PM</u>		

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ADA COUNTY CLERK

NO. _____
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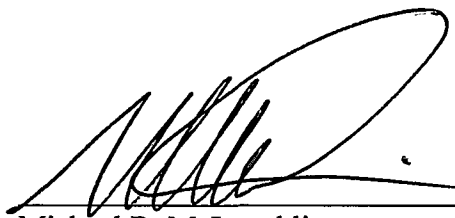
CHRISTOPHER D. RICH, Clerk
By **AMY LYCAN**
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO, <div style="text-align: right;">Plaintiff,</div> v. FARON RAYMOND HAWKINS, <div style="text-align: right;">Defendant.</div>	Case No. CR-FE-2007-0005 Judge Michael R. McLaughlin ORDER GRANTING MOTION TO WITHDRAW AS COUNSEL OF RECORD
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The Court, having considered Defendant's Motion to Withdraw as Counsel of Record, pursuant to Rule 44.1 Idaho Criminal Rules, hereby finds good cause for Brady Law, Chartered to withdraw as counsel of record for Faron Raymond Hawkins.

DATED this day 17 of July, 2013.



Michael R. McLaughlin
District Judge

AL

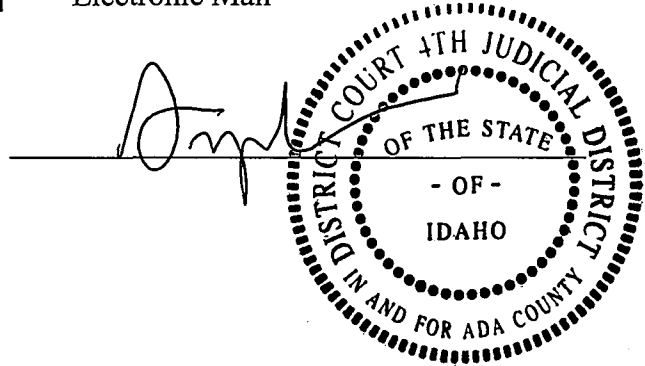
CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18 day of July, 2013, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Roger Bourne	<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
Ada County Prosecuting Attorney's Office	<input type="checkbox"/>	Express Mail
Ada County Courthouse	<input type="checkbox"/>	Hand Delivery
200 W. Front Street, Room 3191	<input type="checkbox"/>	Facsimile Transmission
Boise, ID 83702	<input type="checkbox"/>	Federal Express
(Attorney for Plaintiff)	<input type="checkbox"/>	Electronic Mail

Eric D. Fredericksen	<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
BRADY LAW, CHARTERED	<input type="checkbox"/>	Express Mail
St. Mary's Crossing	<input type="checkbox"/>	Hand Delivery
2537 W. State Street, Suite 200	<input type="checkbox"/>	Facsimile Transmission
Boise, ID 83702	<input type="checkbox"/>	Federal Express
(Attorney for Defendant)	<input type="checkbox"/>	Electronic Mail

Faron Raymond Hawkins	<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
Inmate #17833	<input type="checkbox"/>	Express Mail
Ada County Jail	<input type="checkbox"/>	Hand Delivery
7200 Barrister	<input type="checkbox"/>	Facsimile Transmission
Boise, ID 83704	<input type="checkbox"/>	Federal Express
	<input type="checkbox"/>	Electronic Mail



JUL 19 2013

CHRISTOPHER D. RICH, Clerk
By JOHN WEATHERBY
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

FARON RAYMOND HAWKINS,

Defendant.

Case No. CR-FE-2007-0000005

**ORDER REGARDING
DISCOVERY**

The above matter having come before the Court on the 17th day of July 2013, the Defendant being before the Court pro se with the Ada County Public Defender as standby counsel, the Court having considered the matter and being otherwise advised in the matter, Orders prior counsel, Eric D. Fredericksen, to forward copies of all of Mr. Fredericksen's discovery materials regarding the above-referenced case to the Defendant, Faron Raymond Hawkins.

FURTHER, this Court orders that Mr. Fredericksen will be compensated for the cost of copying said materials.

IT IS SO ORDERED this 19 day of July 2013.


MICHAEL R. MCLAUGHLIN
District Judge

CERTIFICATE OF MAILING

I hereby certify that on this 19 day of July, 2013, I mailed (served) a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTING ATTORNEY
JAN BENNETTS
VIA INTERDEPARTMENTAL MAIL

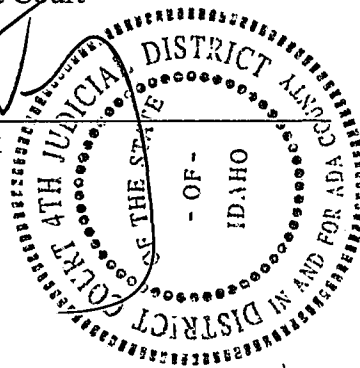
ERIC D. FREDERICKSEN
BRADY LAW, CHTD.
2537 W. STATE ST., STE 200
BOISE, ID 83702

ADA COUNTY PUBLIC DEFENDER
VIA INTERDEPARTMENTAL MAIL

FARON RAYMOND HAWKINS
C/O ADA COUNTY JAIL
MARKED "LEGAL MAIL"

CHRISTOPHER D. RICH
Clerk of the District Court

By: 
Deputy Court Clerk



JUL 19 2013

CHRISTOPHER D. RICH, Clerk
By JOHN WEATHERBY
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

FARON RAYMOND HAWKINS,

Defendant.

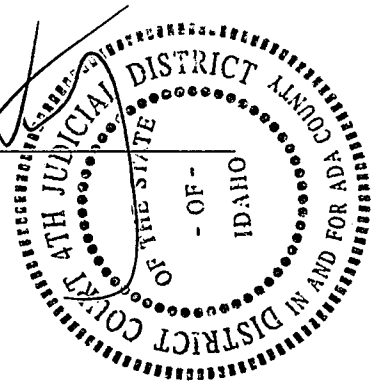
Case No. CR-FE-2007-000005

NOTICE OF HEARING

PLEASE TAKE NOTICE That the Honorable Michael R. McLaughlin, Senior District Judge, has set this matter for Status Hearing on the 31st day of July, 2013, at 4:00 p.m., at the Ada County Courthouse, 200 W. Front, Boise, Idaho.

Christopher D. Rich
Clerk of the Court
Ada County, Idaho

By: _____
Deputy



NOTICE OF HEARING

000181

CERTIFICATE OF MAILING

I hereby certify that on this 19 day of July, 2013, I mailed (served) a true and correct copy of the within instrument to:

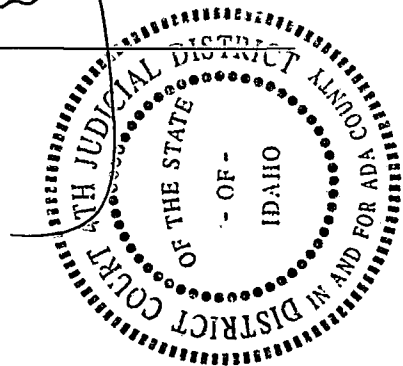
ADA COUNTY PROSECUTING ATTORNEY
JAN BENNETTS
VIA INTERDEPARTMENTAL MAIL

ADA COUNTY PUBLIC DEFENDER
VIA INTERDEPARTMENTAL MAIL

FARON RAYMOND HAWKINS
C/O ADA COUNTY JAIL
MARKED "LEGAL MAIL"

CHRISTOPHER D. RICH
Clerk of the District Court

By: 
Deputy Court Clerk



JUL 19 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

GREG H. BOWER

Ada County Prosecuting Attorney

Roger Bourne

Jan M. Bennetts

Deputy Prosecuting Attorney

200 W. Front Street, Room 3191

Boise, Idaho 83702

Telephone: (208) 287-7700

Facsimile: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

FARON RAYMOND HAWKINS,

Defendant.

Case No. CR-FE-2007-0000005

**SUPPLEMENT TO THE
RECORD REGARDING
DISCOVERY**

COMES NOW, Roger Bourne and Jan M. Bennetts, Deputy Prosecuting Attorneys, in and for the County of Ada, State of Idaho, and Supplement the Record regarding Discovery. The State intended to clarify and supplement the record with additional discovery information during the hearing on July 17, 2013. However, Mr. Hawkins had a discussion with the Court, which resulted in the hearing coming to an end before the State had the opportunity to place additional information regarding discovery on the record.

Further, in light of Mr. Hawkins' allegations regarding the State's handling of discovery in this matter, the State hereby supplements the record regarding the handling of discovery post-appeal and specifically with Mr. Frederickson in the most recent post-appeal proceedings. The State has fully complied with its discovery obligations throughout all of these proceedings from the inception of this case in 2006 and will continue to fully comply with its obligations.

On approximately May 31, 2013, undersigned counsel received a telephone call from Mr. Frederickson who at that time represented Mr. Hawkins in this matter. The State's recollection is Mr. Frederickson indicated that he had been able to obtain all of the discovery in this matter with the exception of certain specific items. The State communicated back and forth with Mr. Frederickson to clarify and determine which items he did not have in the discovery he had already obtained. Those items consisted of CDs and DVDs that had been disclosed previously in 2007 by the State during the prior proceedings -- prior to the trial in 2008. The State provided to Mr. Frederickson copies of those specific items he had requested that were not in the materials he had already received.

Mr. Frederickson also requested an audio of an FBI interview. Undersigned counsel informed him that it was the State's understanding that the FBI does not audio record interviews, but asked Mr. Frederickson if he wished undersigned counsel to follow up with the FBI about it. It was shortly thereafter that Mr. Frederickson withdrew from this case and is no longer representing the Defendant. Undersigned counsel has thereafter confirmed with FBI Agent Mace that there are no audio recordings of his interviews in this case and that at the time he conducted those interviews, the FBI did not audio record interviews.

Despite the Defendant's allegations to the contrary, the State has at all times fully complied, and will at all times fully comply, with discovery during these proceedings.

Significantly, as further evidence of the State's compliance with its discovery obligations, it is clear that the State had previously disclosed these specific items that it provided to Mr. Fredericksen because Mr. Fredericksen knew of the existence of specific items he did not find in the discovery he had obtained and was able to request those items specifically.

The State filed a Second Addendum to Discovery on June 12, 2013, providing these items to Mr. Fredericksen that had been disclosed previously in 2007. Mr. Fredericksen's Office picked up these items on June 11, 2013, and his office signed a certificate of receipt reflecting receipt of those items. The State notes that this "Second Addendum" refers to a post-appeal discovery addendum. The State filed multiple addendums to discovery during the prior trial proceedings prior to the 2008 jury trial. It should also be noted that after the Court of Appeals remanded this case to the district court for a competency hearing in 2010, this Court set the case for a re-trial (before the interlocutory appeal) and the State engaged again in the discovery process. The first post-appeal "Addendum" was filed in 2011 during those district court proceedings, which is why the State labeled this most recent addendum as a "Second Addendum."


It should also be noted that during these post-appeal proceedings, the status of the Defendant's representation has changed several times. He was represented by Mr. Benjamin for a time after the Court of Appeals remanded the case back to the district court. He was represented by Mr. Sutton for a time and he was also pro se with the Ada County Public Defender as standby counsel for a time.

Finally, as this Court is aware, prior to the jury trial in this case, the State went to great lengths to ensure that discovery in this case was provided to Mr. Hawkins, who was not only in custody at the Ada County Jail but who at times was pro se and at times represented. The State

has not attempted to outline here all of the steps the State took at that time to ensure the Defendant had reviewed all of the discovery prior to trial in 2008. However, the State reserves the right to do so should this Court have a hearing on this matter as has been requested by the Defendant.

DATED this 19th day of July 2013.

GREG H. BOWER
Ada County Prosecuting Attorney

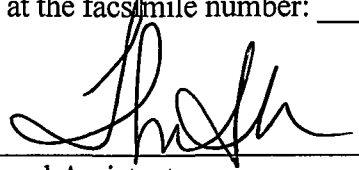
By: 
Jan M. Bennetts
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of July 2013, I caused to be served, a true and correct copy of the foregoing **Supplement to the Record Regarding Discovery, filed July 19, 2013** upon the individual(s) named below in the manner noted:

Name and address: Faron Hawkins, c/o Ada County Jail, 7200 Barrister, Boise, Idaho 83704 and August Cahill, Ada County Public Defender, 200 W. Front Street, Rm. 1107, Boise, Idaho 83702

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☒ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____


Legal Assistant

JUL 30 2013

CHRISTOPHER D. RICH, Clerk
By AMY LYCAN
DEPUTY

Faron R Hawkins
Ada County Jail
7210 Barnster
Boise Id 83764

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff
v
Faron R Hawkins
Defendant

Case No. CR-FE-2007-5

Motion to Strike November 12th 2010 Competency
hearing and
Motion to Strike Retroactive Competency Ruling do
to Abuse of Discretion by this Court, denied due process,
by Judge Michael McLaughlin.

Comes Now Faron R Hawkins, defendant, Pro Se, as to the following:

1. McLaughlin failed to appoint a counsel for the defendant at the end of the Nov 12th 2010 hearing to make closing argument, to appeal the decision within 42 days, to reopen hearing to rebutt states evidence, to admit new evidence, to move to strike for ineffectual counsel, to guarantee the defendant's 6th amendment right to counsel, since Sutton is on record with Idaho State Bar stating that he was only hired for the Nov 12th 2010 hearing.
2. McLaughlin failed to permit the defendant to proceed pro se at end of Nov 12th 2010 hearing denying Pro Se by the Court, on record.
3. on or about Dec 8th 2010, when the Court allowed Sutton to withdraw, and granted Pro Se status to the defendant, the Court, Judge McLaughlin abused his discretion by failing the required Foretta inquiry of the defendant, prior to granting Pro Se status.
4. the Court allowed the defendant to argue all hearings, competency, retro competency, without the required "Foretta", abusing its discretion, failing a required act, Constitutionally required, just after the defendant had been denied Pro Se Status, because he was deemed incompetent Motion to strike all proceedings do to abuse of discretion and denied due process.
Set for oral argument within 14 days, or dismiss all hearings.
Dated this 15th day of June 2013

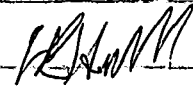
[Signature] Faron R Hawkins

Certificate of Service

I Foran Haulkint placed a true and correct copy of the foregoing in the United States mail on the 12th Day of July 2013 to the following:

Ada County Clerk of the Court
200 W Front St
Boise Id 83702

Ada County Prosecutor
200 W Front St
Boise Id 83702


Foran Haulkint

Faron R. Hawkins
Ada County Jail
7210 Barnster
Box Id 83704

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v:
Faron R. Hawkins
Defendant

Case No. CR-FE-2007-5

Motion for the Court to Take Judicial Notice of
Case No. CV-CP-0617231, All proceedings, Motions
hearings, reports, case file, video, audio of CARES
Interviews, Feb 14th 2007 Administrative hearing,
Chaired by Peg Doughty, with Jennika Archer, Heidi
Gargas under oath do to the direct connection with
CR-FE-2007-5 Claims of Prosecutorial Misconduct,
Fraud, falsifying official record, documents and testimony
in the above directly relating Bourne and Bennetts
Selected falsified, fraudulent Nov 22nd 2010 Closing
Argument, and Nov 12th 2010 hearing, proving a
deliberate, ongoing, habitual pattern of Prosecutorial
Misconduct and fraud

And

Motion to dismiss for fraud by State Actors.

Comes Now Faron R. Hawkins, Defendant, Pro Se, moving this Court to take Judicial Notice
and dismiss do to the fact Bourne, Bennetts have committed fraud, ongoing, knowingly as
their own actions prove in the above motions for Judicial Notice and Motion to Dismiss.

1. Bourne, Bennetts have habitually manufactured, falsified, altered, suppressed, destroyed official
government documents, selected perjured statements, testimony that the above cases, record proved in
their own words, name, and signatures, directly relating, proving malice and criminal acts.
2. Bourne, fraudulently caused, supervised, the unlawful removal of the defendant's children, kept unlawful
custody of the children, traumatizing them and the defendant, in a sick and sadistic act without

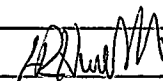
any basis in fact or law. To coerce the defendant to make confessions, statements, which traumatizing a 10, 8, 1 year old children for his sadistic purpose. Violating Idaho and federal criminal codes, and perpetuating the fraudulent records to gain an unfairly prejudicial purpose to gain a unlawful advantage in prosecution, while violating civil and criminal codes.

3. CX-CP-0617231 will show that the children spoke of the defendant having worked for the CIA and DIA, that they had knowledge of this for the majority of their lives, that they said this on video, in front of Jerrika Arder for Ada County and Heidi Burgos for Health and Welfare and Andrew Ellis Ada County Prosecutors office and Bourne and Bennett's deputy prosecutor, of which Bourne and Bennett's viewed the video and listened to the audio, directing the questions and falsified records. Bourne at trial on record stated he knew of the children and prior to the trial in discussion before the court, was asked if he was going to call the children, and answered no. Of course he would not, their testimony related Bourne's reports, and he knew it, deliberately hiding evidence. (Breathy material that the defense had requested through Rule 16 and had been denied) And later a Napue violation when Bourne and Bennett's solicited testimony in CX-CP-0617231 and CL-FE-2007-5 with Estes and Sample, knowing it was a perjured lie, do directly to Bourne and Bennett's falsification of CL-FE-2007-5, Attorney, Suppressing, and deliberate manufacture of known fraudulent official record by them.

4. The court, Judge McLaughlin was sitting on the Care's advisory board during the unlawful kidnappings, custody, of which Bourne acted, and supervised the deputy prosecutor for an unlawful custody of 18 months, during the exact time period of CL-FE-2007-5 - M0600093. This was an abuse of discretion, as this court knowingly acted, with full knowledge, as it had asked for and obtained the entire record "everything," from Roger Bourne.

Motion for Rule 48 dismissal or set for oral argument

Dated this 10th day of June 2013


Fern R. Hawkins

DIAGNOSTIC AND STATISTICAL
MANUAL OF
MENTAL DISORDERS

FOURTH EDITION
TEXT REVISION

DSM-IV-TR[®]

AMERICAN PSYCHIATRIC ASSOCIATION

schizophrenia in first-episode. Most studies have found an increase in the prevalence of psychotic disorders at increased age.

Combination of psychotic and mood disorders. From the history, the direct causes are the direct causes (see p. 334). Subtypes are distinguished by the presence of a mood episode related to the psychotic disorder.

From Mood Disorder, there are two types of Schizoaffective Disorder: the total duration of the disorder is at least 1 month of mood symptoms and the duration of the psychotic symptoms does not meet the criteria for a psychotic episode during the mood episode. The mood episode is considered a mood episode if it is considered a mood episode. Loss of interest, therefore, to meet the criteria must include

the change over time. The mood episode of the disorder, a diagnosis of Schizoaffective Disorder would be given if the symptoms persist for at least 1 month. For example, to meet Criterion A for Schizoaffective Disorder from this episode without prominent mood symptoms.

Disorder because the period of delusions and hallucinations was not continuous with the initial period of disturbance. Instead, the appropriate diagnoses for the first episode would be Mood Disorder With Psychotic Features, In Full Remission, and Schizophreniform Disorder (Provisional) for the current episode.

Mood disturbances, especially depression, commonly develop during the course of Delusional Disorder. However, such presentations do not meet criteria for Schizoaffective Disorder because the psychotic symptoms in Delusional Disorder are restricted to nonbizarre delusions and therefore do not meet Criterion A for Schizoaffective Disorder.

If there is insufficient information concerning the relationship between psychotic and mood symptoms, Psychotic Disorder Not Otherwise Specified may be the most appropriate diagnosis.

Diagnostic criteria for 295.70 Schizoaffective Disorder

- A. An uninterrupted period of illness during which, at some time, there is either a Major Depressive Episode, a Manic Episode, or a Mixed Episode concurrent with symptoms that meet Criterion A for Schizophrenia.

Note: The Major Depressive Episode must include Criterion A1: depressed mood.

- B. During the same period of illness, there have been delusions or hallucinations for at least 2 weeks in the absence of prominent mood symptoms.
- C. Symptoms that meet criteria for a mood episode are present for a substantial portion of the total duration of the active and residual periods of the illness.
- D. The disturbance is not due to the direct physiological effects of a substance (e.g., a drug of abuse, a medication) or a general medical condition.

Specify type:

Bipolar Type: if the disturbance includes a Manic or a Mixed Episode (or a Manic or a Mixed Episode and Major Depressive Episodes)

Depressive Type: if the disturbance only includes Major Depressive Episodes

297.1 Delusional Disorder

Diagnostic Features

The essential feature of Delusional Disorder is the presence of one or more nonbizarre delusions that persist for at least 1 month (Criterion A). A diagnosis of Delusional Disorder is not given if the individual has ever had a symptom presentation that met Criterion A for Schizophrenia (Criterion B). Auditory or visual hallucinations, if present, are not prominent. Tactile or olfactory hallucinations may be present (and prominent) if they are related to the delusional theme (e.g., the sensation of being infested with insects associated with delusions of infestation, or the perception that one emits a foul odor from a body orifice associated with delusions of reference). Apart

from the direct impact of the delusions, psychosocial functioning is not markedly impaired, and behavior is neither obviously odd nor bizarre (Criterion C). If mood episodes occur concurrently with the delusions, the total duration of these mood episodes is relatively brief compared to the total duration of the delusional periods (Criterion D). The delusions are not due to the direct physiological effects of a substance (e.g., cocaine) or a general medical condition (e.g., Alzheimer's disease, systemic lupus erythematosus) (Criterion E).

Although the determination of whether delusions are bizarre is considered to be especially important in distinguishing between Delusional Disorder and Schizophrenia, "bizarreness" may be difficult to judge, especially across different cultures. Delusions are deemed bizarre if they are clearly implausible, not understandable, and not derived from ordinary life experiences (e.g., an individual's belief that a stranger has removed his or her internal organs and replaced them with someone else's organs without leaving any wounds or scars). In contrast, nonbizarre delusions involve situations that can conceivably occur in real life (e.g., being followed, poisoned, infected, loved at a distance, or deceived by one's spouse or lover).

Psychosocial functioning is variable. Some individuals may appear to be relatively unimpaired in their interpersonal and occupational roles. In others, the impairment may be substantial and include low or absent occupational functioning and social isolation. When poor psychosocial functioning is present in Delusional Disorder, it arises directly from the delusional beliefs themselves. For example, an individual who is convinced that he will be murdered by "Mafia hit men" may quit his job and refuse to leave his house except late at night and only when dressed in clothes quite different from his normal attire. All of this behavior is an understandable attempt to prevent being identified and killed by his presumed assassins. In contrast, poor functioning in Schizophrenia may be due to both positive and negative symptoms (particularly avolition). Similarly, a common characteristic of individuals with Delusional Disorder is the apparent normality of their behavior and appearance when their delusional ideas are not being discussed or acted on. In general, social and marital functioning are more likely to be impaired than intellectual and occupational functioning.

Subtypes

The type of Delusional Disorder may be specified based on the predominant delusional theme:

Erotomantic Type. This subtype applies when the central theme of the delusion is that another person is in love with the individual. The delusion often concerns idealized romantic love and spiritual union rather than sexual attraction. The person about whom this conviction is held is usually of higher status (e.g., a famous person or a superior at work), but can be a complete stranger. Efforts to contact the object of the delusion (through telephone calls, letters, gifts, visits, and even surveillance and stalking) are common, although occasionally the person keeps the delusion secret. Most individuals with this subtype in clinical samples are female; most individuals with this subtype in forensic samples are male. Some individuals with this subtype, particularly males, come into conflict with the law in their efforts to pursue the object of

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their delusion or in a misguided effort to "rescue" him or her from some imag-
ined danger.

Grandiose Type. This subtype applies when the central theme of the delu-
sion is the conviction of having some great (but unrecognized) talent or insight
or having made some important discovery. Less commonly, the individual
may have the delusion of having a special relationship with a prominent per-
son (e.g., an adviser to the president) or being a prominent person (in which
case the actual person may be regarded as an impostor). Grandiose delusions
may have a religious content (e.g., the person believes that he or she has a spe-
cial message from a deity).

Jealous Type. This subtype applies when the central theme of the person's
delusion is that his or her spouse or lover is unfaithful. This belief is arrived at
without due cause and is based on incorrect inferences supported by small bits
of "evidence" (e.g., disarrayed clothing or spots on the sheets), which are collect-
ed and used to justify the delusion. The individual with the delusion usually
confronts the spouse or lover and attempts to intervene in the imagined infi-
delity (e.g., restricting the spouse's autonomy, secretly following the spouse,
investigating the imagined lover, attacking the spouse).

Persecutory Type. This subtype applies when the central theme of the delu-
sion involves the person's belief that he or she is being conspired against,
cheated, spied on, followed, poisoned or drugged, maliciously maligned, har-
rassed, or obstructed in the pursuit of long-term goals. Small slights may be
exaggerated and become the focus of a delusional system. The focus of the de-
lusion is often on some injustice that must be remedied by legal action ("quer-
ulous paranoia"), and the affected person may engage in repeated attempts to
obtain satisfaction by appeal to the courts and other government agencies. In-
dividuals with persecutory delusions are often resentful and angry and may
resort to violence against those they believe are hurting them.

Somatic Type. This subtype applies when the central theme of the delusion
involves bodily functions or sensations. Somatic delusions can occur in several
forms. Most common are the person's conviction that he or she emits a foul
odor from the skin, mouth, rectum, or vagina; that there is an infestation of in-
sects on or in the skin; that there is an internal parasite; that certain parts of the
body are definitely (contrary to all evidence) misshapen or ugly; or that parts
of the body (e.g., the large intestine) are not functioning.

Mixed Type. This subtype applies when no one delusional theme predomi-
nates.

Unspecified Type. This subtype applies when the dominant delusional
belief cannot be clearly determined or is not described in the specific types
(e.g., referential delusions without a prominent persecutory or grandiose com-
ponent).

Associated Features and Disorders

Social, marital, or work problems can result from the delusional beliefs of Delusional
Disorder. Ideas of reference (e.g., that random events are of special significance) are
common in individuals with this disorder. Their interpretation of these events is usu-

ally consistent with the content of their delusional beliefs. Many individuals with Delusional Disorder develop irritable or dysphoric mood, which can usually be understood as a reaction to their delusional beliefs. Especially with the Persecutory and Jealous Types, marked anger and violent behavior can occur. The individual may engage in litigious behavior, sometimes leading to hundreds of letters of protest to government and judicial officials and many court appearances. Legal difficulties can occur in Delusional Disorder, Jealous Type and Erotomantic Type. Individuals with Delusional Disorder, Somatic Type, may be subject to unnecessary medical tests and procedures. Hearing deficiency, severe psychosocial stressors (e.g., immigration), and low socioeconomic status may predispose an individual to the development of certain types of Delusional Disorder (e.g., Paranoid Type). Major Depressive Episodes probably occur in individuals with Delusional Disorder more frequently than in the general population. Delusional Disorder may be associated with Obsessive-Compulsive Disorder, Body Dysmorphic Disorder, and Paranoid, Schizoid, or Avoidant Personality Disorders.

Specific Culture and Gender Features

An individual's cultural and religious background must be taken into account in evaluating the possible presence of Delusional Disorder. Some cultures have widely held and culturally sanctioned beliefs that might be considered delusional in other cultures. The content of delusions also varies in different cultures and subcultures. Delusional Disorder, Jealous Type, is probably more common in men than in women, but there appears to be no major gender difference in the overall frequency of Delusional Disorder.

Prevalence

Delusional Disorder is relatively uncommon in clinical settings, with most studies suggesting that the disorder accounts for 1%–2% of admissions to inpatient mental health facilities. Precise information about the population prevalence of this disorder is lacking, but the best estimate is around 0.03%. Because of its usually late age at onset, the lifetime morbidity risk may be between 0.05% and 0.1%.

Course

The age at onset of Delusional Disorder is variable, ranging from adolescence to late in life. The Persecutory Type is the most common subtype. The course is quite variable. Especially in the Persecutory Type, the disorder may be chronic, although a waxing and waning of the preoccupation with the delusional beliefs often occurs. In other cases, full periods of remission may be followed by subsequent relapses. In yet other cases, the disorder remits within a few months, often without subsequent relapse. Some evidence suggests that the Jealous Type may have a better prognosis than the Persecutory Type. When the Persecutory Type is associated with a precipitating event or stressor, it may have a better prognosis.

Familial Pattern

Some studies have found that the prevalence of Delusional Disorder is higher in individuals with a family history of schizophrenia. There is also evidence that the disorder may be especially common in families with Delusional Disorder.

Differential Diagnosis

The diagnosis of Delusional Disorder is often difficult because of the overlap with other psychotic disorders. The direct physiological causes, such as dementia, must be ruled out. Delusional Disorder may be confused with symptoms of schizophrenia (e.g., "delusional clothes") in the early stages of the disorder. Delusional Disorder is also distinct from Dementia of the Alzheimer Type, which is a psychotic disorder, and from Schizophrenia, which is a psychotic disorder. Delusional Disorder is also distinct from Schizophrenia, which is a psychotic disorder. Delusional Disorder is also distinct from Schizophrenia, which is a psychotic disorder.

Delusional Disorder is also distinct from Schizophrenia, which is a psychotic disorder. Delusional Disorder is also distinct from Schizophrenia, which is a psychotic disorder. Delusional Disorder is also distinct from Schizophrenia, which is a psychotic disorder.

It can be difficult to distinguish Delusional Disorder from Schizophrenia because they usually involve similar symptoms. Delusional Disorder is usually characterized by a single delusion, while Schizophrenia is characterized by multiple delusions. Delusional Disorder is also characterized by a lack of other psychotic symptoms, such as hallucinations and disorganized speech. Delusional Disorder is also characterized by a lack of insight into the delusion. Delusional Disorder is also characterized by a lack of insight into the delusion. Delusional Disorder is also characterized by a lack of insight into the delusion.

Individuals with Delusional Disorder can usually be distinguished from the Persecutory Disorder by the fact that the individual may have other symptoms of protest to the difficulties that can be associated with the disorder. Individuals with Delusional Disorder may have medical tests and physical examinations (e.g., immigration), development of Depressive Episodes frequently than with Obsessive-Compulsive Disorder, or Avoidant Disorder.

Individuals with Delusional Disorder may have widely varying degrees of impairment in other areas of functioning and subcultures. The prevalence of Delusional Disorder is higher in women than in men, and the frequency of Delusional Disorder is higher in women than in men.

In most studies, the prevalence of Delusional Disorder in outpatients with mental disorders is higher than in the general population, and the prevalence is higher in late age groups than in early age groups.

The prevalence of Delusional Disorder is quite variable, although it often occurs in relapses. In yet other studies, the prevalence of Delusional Disorder is higher than in the general population, and the prevalence is higher in late age groups than in early age groups.

Familial Pattern

Some studies have found that Delusional Disorder is more common among relatives of individuals with Schizophrenia than would be expected by chance, whereas other studies have found no familial relationship between Delusional Disorder and Schizophrenia. There is limited evidence that Avoidant and Paranoid Personality Disorders may be especially common among first-degree biological relatives of individuals with Delusional Disorder.

Differential Diagnosis

The diagnosis of Delusional Disorder is made only when the delusion is not due to the direct physiological effects of a substance or a general medical condition. A delirium, a dementia, and Psychotic Disorder Due to a General Medical Condition may present with symptoms that suggest Delusional Disorder. For example, simple persecutory delusions (e.g., "someone comes into my room at night and steals my clothes") in the early phase of Dementia of the Alzheimer's Type would be diagnosed as Dementia of the Alzheimer's Type, With Delusions. A Substance-Induced Psychotic Disorder, especially due to stimulants such as amphetamines or cocaine, cross-sectionally may be identical in symptomatology to Delusional Disorder, but can usually be distinguished by the chronological relationship of substance use to the onset and remission of the delusional beliefs.

Delusional Disorder can be distinguished from Schizophrenia and Schizophreniform Disorder by the absence of the other characteristic symptoms of the active phase of Schizophrenia (e.g., prominent auditory or visual hallucinations, bizarre delusions, disorganized speech, grossly disorganized or catatonic behavior, negative symptoms). Compared with Schizophrenia, Delusional Disorder usually produces less impairment in occupational and social functioning.

It can be difficult to differentiate Mood Disorders With Psychotic Features from Delusional Disorder, because the psychotic features associated with Mood Disorders usually involve nonbizarre delusions without prominent hallucinations, and Delusional Disorder frequently has associated mood symptoms. The distinction depends on the temporal relationship between the mood disturbance and the delusions and on the severity of the mood symptoms. If delusions occur exclusively during mood episodes, the diagnosis is Mood Disorder With Psychotic Features. Although depressive symptoms are common in Delusional Disorder, they are usually mild, remit while the delusional symptoms persist, and do not warrant a separate Mood Disorder diagnosis. Occasionally, mood symptoms that meet full criteria for a mood episode are superimposed on the delusional disturbance. Delusional Disorder can be diagnosed only if the total duration of all mood episodes remains brief relative to the total duration of the delusional disturbance. If symptoms that meet criteria for a mood episode are present for a substantial portion of the delusional disturbance (i.e., the delusional equivalent of Schizoaffective Disorder), then a diagnosis of Psychotic Disorder Not Otherwise Specified accompanied by either Depressive Disorder Not Otherwise Specified or Bipolar Disorder Not Otherwise Specified is appropriate.

Individuals with Shared Psychotic Disorder can present with symptoms that are similar to those seen in Delusional Disorder, but the disturbance has a characteristic

etiology and course. In Shared Psychotic Disorder, the delusions arise in the context of a close relationship with another person, are identical in form to the delusions of that other person, and diminish or disappear when the individual with Shared Psychotic Disorder is separated from the individual with the primary Psychotic Disorder. **Brief Psychotic Disorder** is differentiated from Delusional Disorder by the fact that the delusional symptoms last less than 1 month. A diagnosis of **Psychotic Disorder Not Otherwise Specified** may be made if insufficient information is available to choose between Delusional Disorder and other Psychotic Disorders or to determine whether the presenting symptoms are substance induced or the result of a general medical condition.

It may be difficult to differentiate **Hypochondriasis** (especially With Poor Insight) from Delusional Disorder. In Hypochondriasis, the fears of having a serious disease or the concern that one has such a serious disease are held with less than delusional intensity (i.e., the individual can entertain the possibility that the feared disease is not present). **Body Dysmorphic Disorder** involves a preoccupation with some imagined defect in appearance. Many individuals with this disorder hold their beliefs with less than delusional intensity and recognize that their view of their appearance is distorted. However, a significant proportion of individuals whose symptoms meet criteria for Body Dysmorphic Disorder hold their beliefs with delusional intensity. When criteria for both disorders are met, both Body Dysmorphic Disorder and Delusional Disorder, Somatic Type, may be diagnosed. The boundary between **Obsessive-Compulsive Disorder** (especially With Poor Insight) and Delusional Disorder can sometimes be difficult to establish. The ability of individuals with Obsessive-Compulsive Disorder to recognize that the obsessions or compulsions are excessive or unreasonable occurs on a continuum. In some individuals, reality testing may be lost, and the obsession may reach delusional proportions (e.g., the belief that one has caused the death of another person by having willed it). If the obsessions develop into sustained delusional beliefs that represent a major part of the clinical picture, an additional diagnosis of Delusional Disorder may be appropriate.

In contrast to Delusional Disorder, there are no clear-cut or persisting delusional beliefs in **Paranoid Personality Disorder**. Whenever a person with a Delusional Disorder has a preexisting Personality Disorder, the Personality Disorder should be listed on Axis II, followed by "Premorbid" in parentheses.

Diagnosti

- A. Nonbizarre followed, having a c
- B. Criterion lucination theme.
- C. Apart from edly impair
- D. If mood episode been brief
- E. The disturbing drug of at

Specify type theme):

Erotom
love with
Grandio
special re
Jealous
Persecu
is close)
Somatic
medical
Mixed T
no one t
Unspeci

Diagnostic F

The essential fe sudden onset of hallucinations, grossly disorgan lasts at least 1 d turn to the pre accounted for b order, or by Sch stance (e.g., a ha (Criterion C).

Diagnostic criteria for 297.1 Delusional Disorder

- A. Nonbizarre delusions (i.e., involving situations that occur in real life, such as being followed, poisoned, infected, loved at a distance, or deceived by spouse or lover, or having a disease) of at least 1 month's duration.
- B. Criterion A for Schizophrenia has never been met. **Note:** Tactile and olfactory hallucinations may be present in Delusional Disorder if they are related to the delusional theme.
- C. Apart from the impact of the delusion(s) or its ramifications, functioning is not markedly impaired and behavior is not obviously odd or bizarre.
- D. If mood episodes have occurred concurrently with delusions, their total duration has been brief relative to the duration of the delusional periods.
- E. The disturbance is not due to the direct physiological effects of a substance (e.g., a drug of abuse, a medication) or a general medical condition.

Specify type (the following types are assigned based on the predominant delusional theme):

Erotomantic Type: delusions that another person, usually of higher status, is in love with the individual

Grandiose Type: delusions of inflated worth, power, knowledge, identity, or special relationship to a deity or famous person

Jealous Type: delusions that the individual's sexual partner is unfaithful

Persecutory Type: delusions that the person (or someone to whom the person is close) is being malevolently treated in some way

Somatic Type: delusions that the person has some physical defect or general medical condition

Mixed Type: delusions characteristic of more than one of the above types but no one theme predominates

Unspecified Type

298.8 Brief Psychotic Disorder

Diagnostic Features

The essential feature of Brief Psychotic Disorder is a disturbance that involves the sudden onset of at least one of the following positive psychotic symptoms: delusions, hallucinations, disorganized speech (e.g., frequent derailment or incoherence), or grossly disorganized or catatonic behavior (Criterion A). An episode of the disturbance lasts at least 1 day but less than 1 month, and the individual eventually has a full return to the premorbid level of functioning (Criterion B). The disturbance is not better accounted for by a Mood Disorder With Psychotic Features, by Schizoaffective Disorder, or by Schizophrenia and is not due to the direct physiological effects of a substance (e.g., a hallucinogen) or a general medical condition (e.g., subdural hematoma) (Criterion C).

JUL 30 2013

RECEIVED

JUL 16 2013

ADA COUNTY CLERK

CHRISTOPHER D. RICH, Clerk
By AMY LYCAN
DEPUTY

Faron R. Hawkins
Ada County Jail
7210 Barrister
Boise Id 83704

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

Case No. CR-FE-2007-5

v.
Faron R. Hawkins
Defendant

Motion to dismiss indictment for Intentional Prosecutorial
Misconduct, Fraud, falsifying, Altering, official Government
record, documents, manufacturing, solicited Perjured
testimony, knowingly, deliberately, in bad faith and malice.

Comes now Faron R. Hawkins, defendant, Pro Se, Moves this court to dismiss the indictment
do to the irreparable damage the prosecutors have done to CR-FE-2007-5, M0600093 through
their malicious, deliberate, intentional fraud perpetrated on the Courts and the defendant.

1. Roger Bourne and Jan Bennetts intentionally altered, falsified, suppressed, their own official record of discovery
and evidence in the above case to obtain a fraudulent ruling to defraud the defendant and the Idaho Courts.
They intentionally altered, falsified, suppressed:

A. S20060700, S20060701, S20060701(A), S20060701(B), S20060701(C), S20060702, S20060703,

Audio cd that interviewed Darcy Bervik talking about she knew Hawkins used to work for CIA for
over 15 (fifteen years) since about 1991. Names Nigel, Kenny, Stephanie, etc... planes, trucks.
That Hawkins would never hurt the children, would not even speak them, did not believe in it

B. Typed interviews, police report from Roseburg Oregon State Police, Darcy talks about knowing
about Hawkins and CIA for most of her time with Hawkins, about 1991 some 15 years.
Names, places, vehicles, CIA, DIA.

C. FBI report 12-15-06 Colorado, Scott Mace SA FBI, again CIA, Nigel etc., known
about Hawkins and CIA for 15 years, worked for government.

D. George Colley retired FBI, FBI report, phone conversation with Hawkins, CIA mentioned,
Colley cut Hawkins off. Clearly Colley did not want that discussed, 2005 + 2006 calls.

All of these were given to Eric Fredrickson June 2013, yet Bourne and Bennetts falsified, altered

000199

Here existence from November 12th 2010. ~~Boerne and Bennetts~~ ^{12/11} ~~Boerne and Bennetts~~ ^{Issued it in 2007 discovery in CR-FE 2007-3}
in Nov. 12th 2010 hearing and all subsequent proceedings they fraudulently falsify, alter, suppress they
existed. This evidence proves they committed fraud because:

1. In 2009 and 2010 Attorney Dennis Benjamin received discovery from Boerne and Bennetts and
again, this evidence was in his discovery he used in the 2009-2010 appeal.

2. This proves this evidence was present in 2006, 2007, 2008, 2009, 2010 up until two days before
Nov. 12th 2010 hearing, then, Boerne and Bennetts altered, falsified, suppressed it, to
purposely commit fraud to gain an unfairly prejudicial advantage over the defendant.

"What kind of Prosecutor removes, suppresses, Alters, official record, then falsifies that record
by providing Dr Estes, Dr Sample with the fraudulent evidence, soliciting their known
perjured testimony, because they manufactured it, lying to the court, defendant, violating
state and federal criminal codes, to win a ruling, cause delay, misuse taxpayer funds,
to maliciously deny the defendant his constitutional rights and a fair trial that the Idaho
Court of Appeals ordered" Roger Boerne and Jan Bennetts then take it beyond this by,
Arguing and asking questions of Dr Estes and Dr Sample, knowing all along the
CIA was not there because they removed it:

Example: Nov 12th 2010 Transcript

page 30 line 15 Bennetts asks why Sample's opinion has changed line 25 being decisional
about CIA page 31 line 1-16 CIA DIA page 33 line 18-25 CIA Government page 34
line 8-13 Again No mention of CIA DIA. page 83 line 19-21 Bennetts asks "Was there any
talk of Nigel and CIA and things like that" Sample "No, nothing" Many other references.

"To ask such a question, knowing Bennetts and Boerne falsified, altered, suppressed into existence
to create a new official record to be able to appeal to the Idaho Supreme Court, is the ultimate
in deceit, to be so fake, lacking an moral character to defraud everyone, courts, doctors,
defendant, Boerne and Bennetts can have absolutely no credibility in any case they present."

In review of the below case, in comparison, Boerne and Bennetts actions are far worse.

United States v Brown United States Court of Appeal (9th Circuit) No 91-55148 Argued Oct 7th 1991

"Held that prosecutors misconduct in knowingly introducing and relying on false evidence requires petitioner's conviction
overturned" 950 F.2d, 1011 "Prosecutors actions in this case are intolerable. Possessed with knowledge that destroyed
her theory of the case, the prosecutor had a duty not to mislead the jury. Instead she kept the facts secret in
the face of a long standing rule of constitutional stature requiring disclosure, and then presented testimony in
such a way as to suggest the opposite of what she alone knew to be true... Such conduct perverts the
adversarial system and endangers its ability to produce just results. In response to the threat such
misconduct poses to the rule of law, the constitution requires convictions to be overturned." 000200

Unlike Brown, Bourne and Bennetts intentionally, maliciously, deliberately "photoshop" the official government document of CR-FE-2007-5, they personally alter and falsify, suppress their own discovery they previously issued. Then in an elaborate scheme ask repeated questions to where is the CIA ^{status} att. Darcy never knew, when they knew she knew, "they altered and falsified" the official case file and Court record to purposely gain a known fraudulent ruling, "Any defendant that did this in court would be put in chains and charged on the spot by them"

Idaho Criminal Code provides for Roger Bourne and Jan Bennetts to be charged for this act

18-3201 Officer stealing, mutilating, or falsifying public records

Any public officer, law enforcement officer or subordinate thereof, who willfully destroys, alters, falsifies or commits the theft of the whole, or any part of any police report or any record kept as part of the official government records of the state or any county or municipality in the state, shall be guilty of a felony and is punishable by imprisonment in the state prison for not more than fourteen (14) years.

18-3203 Offering false or forged instrument of record

Every person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within the state, which instrument, if genuine, might be filed or registered or recorded under any state law of the state, or united states, is guilty of a felony.

Bourne and Bennetts supervise all Ada County deputy prosecutors, their action causes serious need for a full investigation into Ada County in cases, policy, procedures, as both prosecuted fraud cases such as Kandi Hall, they know what falsifying documents, altered documents, and fraud are.

Dennis Benjamin took discovery from Bourne and Bennetts prior to the Nov 12th 2010 hearing, Benjamin will testify to the fact the evidence was there in CR-FE-2007-5 prior to the hearing and as far back as 2006. He will testify to the fact he would have discredited Bourne and Bennetts if he would have represented Hawkins in the Nov 12th 2010 hearing. He will testify to the fact John Eric Sutton was ineffective counsel at that hearing.

Eric Fredericksen took discovery from Bourne and Bennetts in June 2013, and will testify to the fact the evidence was given to him, present in CR-FE-2007-5 after the Nov 12th 2010 hearing, although some of it was missing the full discovery that Bourne and Bennetts produced, offered in official public, government record in 2006, 2007, 2008, as well as evidence they still suppress, hide, falsify the existence of such as:

S20060700, S20060702, S20060703, CV-CR-0617231, CARES Interviews show hours 8-23-06 - 10-13-06

1320851, 1321533, 1321540, 1332598, 1332599, Dept. of Health and Welfare medical and foster care files contain:

A. Children knew "daddy" used to work for CIA

B. Bourne and Bennetts knew children were not abused, neglected, abandon, or even had been spanked prior to removal.

"This proves they falsified police reports, documents, to unlawfully kidnap children, traumatize them."

C. Proves Darcy knew about Hawkins working for CIA as children stated.

000201

"Prosecutor violated the duty not to argue false or inadmissible evidence." *Miller v. Pate* 386 US 1, 87, 547, 17 LEd 2d 698

"Prosecutor's presentation of tainted evidence is viewed seriously and its effects are exceedingly carefully scrutinized." *United States v. Polizzi* 801 F.2d 1543, 1550 (9th circuit) 1986

"Prejudice to defendant's right to fair trial is even more palpable when prosecutor has not only withheld exculpatory evidence, but knowingly introduced and argued false evidence." *Chapman v. California* 386 US 18, 24, 87, 547, 824, 828

"Prosecutor violated duty to inform the defense of material exculpatory evidence." *Brady v. Maryland* 373 US 83, 87, 93, 547, 1194.

"Violated a duty to correct false evidence when offered." *Napue v. Illinois* 360 US 264, 269, 79, 547, 1173, 1177, 3 LEd 2d 1217

"Focus on defendant's right of due process." *United States v. Agurs* 427 US 97

"Knowingly offered perjured testimony." *Manson v. Brulock* 399 US 305

"State v. Ellington 151 Idaho 53, 253, P.3d 727, May 27th 2011 # 33843 "A conviction obtained by knowing use of perjured testimony is fundamentally unfair as a violation of due process." *USCA 9th Cir. 1994*

State v. Wheeler 148 Idaho 364 11/1/00 App. No. 35194

"The state can not convict a person with testimony known to be false or allow testimony to go uncorrected."

Roger Bourne, Jan Bennett's habitually violated Hankins' substantive, fundamental constitutional rights and federal laws over a period to exceed six years, intentionally, in bad faith, prejudicing unfairly, denying Hankins' life, liberty, and any resemblance to a fair and just proceeding required by law. Never making any attempt to correct their intentional fraud, perpetrated on Hankins and the Courts.

Rogers v. Richmond 365 U.S. 534, 545, 81, 547, 735, 5 LEd 2d 760, "The denial of due process vitiated the verdict and sentence.... Verdict is not saved because other competent evidence would support it."

State v. Kavajetz 139 Idaho 482, 483, 80, P.3d 1083, 1084, 2003

"Court has a sua sponte duty to ensure it has subject matter jurisdiction."

Hankins alleges that this court never had jurisdiction because the grand jury was never lawfully seated in its term of service and the fact this court personally presided over every proceeding and ruling, fully aware the defendant was denied his fundamentally guaranteed constitutional rights on numerous occasions, such as 6th Amendment right to witness at trial, denied by this court on the record when ordered continuing when due to Ada County's direct action, witness were blocked by Ada County Prosecutors, and Ada County's intentional act to not serve subpoenas as letter dated Jan 24th 2008 Roger Bourne proves. Brady material violations by Prosecutor and the Court. Repeated motions, demands, requests, failed to gain discovery that proved that the Prosecutors knew about CIA, children interviews, about falsifying official record, fraudulent police reports to unlawfully take children that coerced statements, admissions from Hankins, that the State would have never gained a conviction if not for their unlawful actions, violations.

"errors which violate the constitution automatically call for reversal"

Fahy v Connecticut 375 U.S. 85, 84, S.Ct. 229, 11, L.Ed. 2d 171

"denial of rights guaranteed against invasion by the 5th and 14th amendments, rights rooted in the bill of rights, offered and championed in the congress by James Madison, who told the congress that the independent federal courts would be the guardians of these rights, whether a conviction for crime should stand when a state has failed to accord federal constitutionally guaranteed rights is every bit as much of a federal question as what a particular federal constitutional provisions themselves mean, what they guarantee, and whether they have been denied with faithfulness to the constitutional union of the states, we can not leave to the states the formulation of the authoritative laws, rules, and remedies designed to protect people from infractions by the states of federally guaranteed rights". Chapman v. California 383 U.S. 956, 957, 86, S.Ct. 1228, 16, L.Ed. 2d 300.

Roger Bourne and Jan Bennetts intentionally altered, falsified CR-FE-2007-5 to deliberately produce solicited perjured testimony of their own manufacture, then fraudulently argued, a known false, fraudulent position that CR-FE-2007-5 proved was a lie.

They not only habitually violated their expressed duty to not knowingly admit or argue falsely before the court. They violated criminal law.

Idaho Rules of Professional Conduct

3.3 Candor toward tribunal

A. A lawyer shall not knowingly:

1. Make a false statement of fact or law... or fail to correct...
3. offer evidence that a lawyer knows to be false.

3.4 A unlawfully obstruct another party...

B. falsify evidence

3.8 d ... disclosure

8.4 Misconduct

A. violated

B. violated

C. violated dishonesty fraud deceit or misrepresentation

D. violated

5. Roger Bourne and Jan Bennetts written closing arguments is clear evidence of a fraudulent, falsified official government, public record intentionally; knowingly manufactured by their hand, word, signature. The entire document is full of lies, knowingly produced violation of state and federal laws. It propounds the very evidence that they know is untrue by their own discovery.

Griffin v State of California 380 us 609, 85, set 1229 "Prosecutorial Misconduct, reversed, dismissed, regardless of harmless error" State v Kruse 100 Idaho 877, 879, 646, P2d 981, 983, 1986 "Forum shopping, unlawful conduct"

Bourne and Bennetts stood in front of Idaho Supreme Court, allowing, promoting the state deputy attorney general to argue an intentionally produced fraudulent official record. If they will openly lie to the highest court in Idaho, failing to act with any reasonable dignity, they will lie to any court in the state, denying defendant due process, and a fair proceeding at every turn. There is no way that this court, or any court can be sure if the entire record of CR-FE-2007-5 is altered, falsified, hidden, or destroyed, which gives CR-FE-2007-5 no credibility, do to Bourne and Bennetts.

The defendant Motions this Court to dismiss the indictment and case on the above grounds, and supporting motions to take Judicial Notice of all proceedings, rulings, motions, evidence, case file, audio etc. which shows such an extreme pattern of bias, prejudice, state and federal civil and criminal code violations, United States Constitutional violations over seven years that have tainted every aspect of the defendant's cases. Denied Grand and Speedy August 29th 2006 through Feb 25th 2007. Denied Preliminary hearing, reset six times do to the prosecutor unprepared, then forum shopped to Indictment where he committed court violations, admitted inadmissible testimony in violation of 6th Amendment right to counsel, violated his expressed duty under I.C.R. 6.2 advise standard of probable cause, denied jurors to ask questions on transcript, had contact with juror outside of hearing during deliberations, on transcript, would never have obtained an indictment without his unlawful acts, as all teller picked another man, only unlawfully obtained testimony by way of 12th Dave Smith mailed the indictment. That is why Bourne forum shopped from information to indictment because a skilled defense lawyer by way of cross examination would have exposed the 6th amendment violation and had the charge dismissed. The continual violations of the state in this case, and 3 other of the defendant makes it impossible to try this case and renders the case in arrested judgment.

Defendant moves for indictment to be dismissed, case dismissed with prejudice attached within 7 days because defendant has been denied life liberty in violation of the United States Constitution and federal law.

Dated this 29th day of June 2013

Robert A. Henthorn
Forum R. Henthorn

Faron R. Hawkins
Ada County Jail
7210 Barnister
Base Id 83704

JUL 30 2013

CHRISTOPHER D. RICH, Clerk
By AMY LYCAN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v
Faron R. Hawkins
Defendant

Case No. CR-FE-2007-5

Motion for the Court to take Judicial Notice
of CR-FE-2007-5 Case discovery, specifically,
SU700 audio CDs, dates 8-11-06, 8-15-06, 8-16-06,
8-18-06, FBI 12-15-06, Video 9-28-06 as issued
May-June 2013 to Attorney Eric Fredericksen
Compared to CR-FE-2007-5 in 2006, 2007, 2008.

Comes now, Faron R. Hawkins, defendant, Pro Se, and moves the court for Judicial
notice as to the above and following:

1. Attorney Eric Fredericksen was issued discovery, Case files, evidence, etc. produced
by the state, with Jan Bennett's and Roger Bourne being sole producer, collector,
distributor of this official government record, proves Bourne and Bennett's committed fraud.
The above specific items, was visually read, heard, seen by Eric Fredericksen, directly
proves the state falsified, Altered, Suppressed, destroyed, deliberately, knowingly by solicited
perjured testimony by falsifying Attorney, Suppressor, CR-FE-2007-5 official documents to
Dr. Estess, Dr. Sample, to knowingly obtain a fraudulent ruling, perpetuated before this
Court and the Idaho Supreme Court. These files, evidence has:

A. Dorey Bernik stating she knows about Hawkins and CIA for over 15 years.

B. Dorey Bernik is an audio and typed reports in the possession of Bourne and Bennett,
issued by Bourne and Bennett's.

C. Dorey Bernik stating to FBI in Colorado months later 12-15-06 the same story.

D. Dorey talks about planes, trucks, vans, people, names names.

E. Dorey states it is true, she has known about it since about 1991.

F. Darcy states on audio that her children knew about it to "we all knew".

2. Dennis Benjamin received the same files, discovery in 2008, up to November 2010 up to two days prior to the competency hearing, that Darcy knew about CIA DIA for over 15 years, and named names.

3. Dennis Benjamin said he would discredit the state's testimony.

4. Dennis Benjamin said that the state's audio, typed record of Darcy has her stating that the defendant "would never hurt the children". Audio in Feb 2007 Pre Daugherty hearing, aka proves, "the defendant never abused the children, or even paddled, spanked them". The state lied and claimed that the defendant beat and starved them.


5. Children's interviews, in possession of Bourne, Bennett's, Ada County Prosecutors prove the children knew about the fact "Daddy used to work for CIA".

The deliberate fraud perpetrated on the court and the defendant by Bourne and Bennett's is sadistic and criminal, for six years they have fraudulently manufactured evidence, falsified, altered, suppressed, destroyed official government record.

The defense asks this court to dismiss the indictment and call or in the alternative, set Subpoenas for Benjamin, Fredericksen, Sample, Estes, Bourne, Bennett's, to testify before the court and be cross-examined and the defendant's right to the 6th Amendment right to call witnesses and examine them. This court will find, Benjamin, Fredericksen will testify they did receive discovery produced, signed by Bourne and Bennett's, that prove the testimony and evidence Bourne and Bennett's introduced, from Nov 12th 2010 to this day, is a lie.

Defendant Asks this court to set a hearing as to the above at the earliest possible notice to all parties, to correct a manifest injustice, and fraud.

Dated this 16th day of June 2013


Faron R. Hankins

JUL 30 2013

Faron R Hawkins
Ada County Jail
7210 Barrister
Boise Id 83704

CHRISTOPHER D. RICH, Clerk
By AMY LYCAN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v
Faron R Hawkins
Defendant

Case No. CR-FE-2007-5

Motion for the Court to take Judicial Notice
of the following, case files, Motions, rulings,
Idaho State Bar findings, transcripts,

Comes now, Faron R Hawkins, P.R.S., Defendant, as to the following:

1. States response to defendant's request for discovery Feb 15th 2011, denying "Brady" & rule 16 discovery.
2. Defendant's February 7th 2011 request for specific discovery, "childrens CIA" interviews statements.
3. April 1st 2011 hearing transcripts, ~~the~~ page 15 line 1st - 15th Bennett's said defendant asked for trial to be set off on April 13th 2007 so she thinks that is an implied waiver to Quick and speedy trial. By Bennett's own statement it proves, the defendant never waived his Quick and speedy trial because his 180 days were up 48 days before the "implied waiver" she claims, as August 29th 2006 arraignment to Feb 25th 2007 is 180 days, 48 days before she alleges the defendant "implied" the waiver according to her. This shows Defendant was denied his fundamental Constitutional right of due process, severely prejudicing him, as the state had no conviction as of Feb 25 2007, due process violation.
4. Idaho State Bar response to investigation into Sutton, 11-2-11 (only hired for Nov 12th 2010).
5. States Motion, in limine, trying to deliberately hide, black childrens interviews that have defendant's children stating that they "knew defendant had worked for CIA," "very high rank", stated on audio, video, knew for years. These videos are in the custody of the Ada County Prosecutors office, seen by Baurer and Bennett's.

Defuse asks the court to take Judicial Notice of the above for rulings on defense motions.

Dated this 10th Day of June 2013

Faron R Hawkins
Faron R Hawkins 000207

Foran R Hawkins
Ada County Jail
7210 Tamarisk
Base Id 83704

NO. _____
A.M. 10 FILED P.M. _____

JUL 30 2013

CHRISTOPHER D. RICH, Clerk
By AMY LYCAN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff
v
Foran R Hawkins
Defendant

Case No. CR-FE-2007-5

Motion to Strike Retroactive Competency Ruling

Comes now, Foran R Hawkins, defendant, by &c, as to the following grounds:

1. Judge McLaughlin failed to notice all parties he had sat on CAPES, Advisory board during defendant's childrens unlawful custody and interviews, which showed they knew of CIA.
2. Judge McLaughlin was on Judicial notice as to CIA, because he had read entire file, yet failed to ask why the Doctors had not reviewed it, or why state did not give it to him.
3. Judge McLaughlin knew he had failed to "Faretta" the defendant, violating required duty.
4. Judge McLaughlin failed to provide counsel under USCA 6th after Nov. 12th 2010 hearing, as John Eric Sutton is on record with Idaho State Bar to have only represented at hearing.
5. Judge McLaughlin failed to issue the order of SAPD appointment timely to allow for appeal of ineffective counsel, or appeal upon the defendant's issues.
6. Due to failures, SAPD did not appoint counsel until January 14th 2012, therefore defendant was without counsel for over a year due to states failure. SAPD verified, as did Eric Erdemulsen, that Eric did not file a notice of appearance to Idaho Supreme Court until January 2012. Defendant had filed motions into Idaho Supreme Court by notices in case, and writ allegary was counsel, all were denied.
7. This court still had John Eric Sutton as counsel for defendant in May of 2013, some two and a half years after Suttons withdrawal.
8. This court had went on record, stating it had made observations, opinions as to defendant's mental state as of and prior to November 22nd 2010, this showed bias, prejudice, abuse of

direction, for the court to proceed in rendering a ruling as to retroactive competency. This court should have removed itself from the case allowing another Judge to sit in and rule as to retro competency, and even the competency ruling.

9. This court is on record calling the defendant "a fool". Denying all the defendant's motions, many clearly valid and should have been ruled in favor of. On the other hand this court has granted all the state's motions, showing clear bias/prejudice.

10. This court is on record stating it has read the entire case file, looked at all the evidence, at least twice, yet somehow missed the fact Darcy stated numerous times on audio and in document that she had known about the defendant and his past connection with CIA for over 15 years. Which the state claimed in selected testimony never happened, that she never knew, as Bourne and Bennett's state in the November 22nd closing arguments. The defendant is clearly slandered, libeled, as Dr Sample stated in page 30, the main reason he had changed his mind is because ~~the~~ Darcy never knew about CIA, defendant had never said anything, this excuse was a lie, perpetuated by Bourne and Bennett's, of which the Judge had to know if he was correct when he said, he had reviewed the entire file more than twice. Since Benjamin and Fredrickson both saw Darcy's numerous entries of CIA from 8-11-06 to 12-15-06 with the FBI, telling the same story.

11. DSM NTR, stating the symptoms of the illness directly relate the symptoms of the illness as stated by the Doctors. Dr Robert Clumey MD, one of the world's top psychiatrists states that the symptoms as stated on the record are "completely wrong".

12. The time that had transpired from 18 months of pretrial of which the defendant had a "psychotic break" according to Dr Garrett, and was on heavy medication, to a post trial period of January 11th 2008 until the November 12th 2010 competency hearing, 2008 August to November 2010, is not possible to make a retroactive finding.

Defense moves for oral argument or hearing ruling of retroactive competency struck. Set at earliest with time allowed for subpoena of Dr Garrett, Sample, Estes, all other required.

Dated this 10th day of June 2013

Handwritten signature
Karin R. Hawkins

JUL 30 2013

CHRISTOPHER D. RICH, Clerk
By AMY LYCAN
DEPUTY

Faron R Hawkins

Ada County Jail

7210 Barnster

Boise Id 83704

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v

Faron R Hawkins
Defendant

Case No. CR-FE-2007-5

Motion to Strike Competency hearing
for ineffectual Counsel.

Comes now, Faron R. Hawkins, defendant, pro se, motions the Court to strike as to the following grounds and to have hearing set for oral argument and to present evidence:

1. John Eric Sutton never had informed consent, or a fee agreement signed to represent.
2. John Eric Sutton violated Idaho Rules of Professional Conduct
3. John Eric Sutton was totally unprepared and appeared to be under the influence of something
 - A. his legs shook uncontrollably
 - B. his breath smelled unusual
 - C. he made statements about people hanging themselves.
 - D. he had problems making his questions understandable (see transcript)
 - E. he did not have one question prepared
 - F. he did not admit a single document
 - G. he failed to get a doctor to rebuttal states doctor's
 - H. he failed to get a continuance after substituting counsel just two days prior
 - I. he took money from a third party, forcing defendant to be denied attorney of choice.
 - J. he never reviewed case file, totally unfamiliar with case.
 - K. lied to defendant's parents about his representation.
 - L. Was not prepared to make verbal closing statements.
 - M. failed to make written closing statements the court ordered.
 - N. released confidential files to Prosecution night before hearing without consent.
 - O. refused to give money back when defendant told him to prior to hearing.

000210

4. Defense will call witness to the stand by Subpoena

A. Dennis Benjamin Attorney

B. Eric Fredericksen Attorney

C. Virginia Bond Attorney

D. Greg Silver Attorney

who will testify John Eric Sutton was ineffective

5. This will be grounds for striking the hearing

6. DSM IV TR was not introduced

7. Defendants EEG's were not introduced

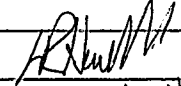
8. November 12th 2010 court transcripts introduced.

9. John Eric Sutton's history of conduct through representation.

Defense asks for a hearing to be set with court ordered subpoenas as to the above attorneys as well as the case file CR-FE-2007-5 and subpoena to Kandi Hall who will testify to improper conduct while she was working as Sutton's paralegal.

Set for hearing prior to August 29th hearing to prove if Court has subject matter jurisdiction to proceed.

Dated this 10th Day of June 2013


Aaron R. Hawkins

Faron R Hawkins
Ada County Jail
7210 Barnster
Boise Id 83704

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A.M. FILED
P.M.

JUL 30 2013

CHRISTOPHER D. RICH, Clerk
BY AMY LYON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v

Faron R Hawkins
Defendant

Case No. CR-FE-2007-5

Motion to Strike Competency hearing

Do to unfairly Prejudicial Conflict of

Interest as to Doctor Mike Estess

Comes Now, Faron R Hawkins, defendant, do se, and motions the court to strike as to the following:

1. Dr Estess was clearly bias, prejudice as to the defendant, in his verbal usage of unprofessional, and word slanderous characterizations of the defendant.
 2. Dr Estess failed to inform the court he had met, was involved with the defendant's children while in state custody.
 3. Dr Estess, used behavioral modification upon the defendant's children and authorized the prescription of drugs to the defendant's children.
 4. Dennis Benjamin can testify to Dr Estess bias, prejudice towards the defendant in a phone call with Benjamin prior to the hearing, and the fact that Dr Estess made untrue statements about what Benjamin had said.
 5. Dr Estess was untruthful when he failed to correctly state his income primarily comes from the state and county, and he testifies for them almost exclusively.
 6. Dr Estess was "completely wrong" as to his stated symptoms of the illness.
- This was a extreme conflict of interest, purposely, knowingly, withheld,

Motion to set for oral argument with ordered subpoenas.
Dated this 10th day of June 2013

Faron R Hawkins
Faron R Hawkins

000212

JUL 30 2013

CHRISTOPHER D. RICH, Clerk
By AMY LYCAN
DEPUTY

IN THE DISTRICT COURT OF THE JUDICIAL 4th JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF ADA, STATE OF IDAHO,

STATE OF IDAHO)
Plaintiff,)
)
vs.)
)
FARON HAWKINS,)
Defendant.)

Criminal No. CR-FE-07-0005

WAIVER OF THE RIGHT TO
ATTORNEY

1. You have the right to the have an attorney advise and represent you at every stage of the proceedings, even when making the decision to waive (give up) your right to an attorney
2. If you cannot afford to hire an attorney, you may apply to have an attorney appointed to represent you at public expense.
- 3.. The attorney can review the facts and circumstances to see if there are any defenses to the charge or charges and advise you on what you should do.
4. An attorney can make sure that your constitutional rights are protected and can help you by:
 - Presenting any defenses.
 - Investigating facts and evidence.
 - Making motions to protect your constitutional rights.
 - Properly applying the rules of evidence and procedure.
 - Questioning and cross-examining witnesses.
 - Objecting to improper questioning.
 - Presenting arguments and evidence to the court
5. If you give up your right to an attorney you will be representing yourself. You will be responsible for properly applying the rules of evidence and procedure. The Court cannot and will not assist you in doing this.

I hereby acknowledge and waive my right to an attorney in the above-captioned case. This waiver is given knowingly, intelligently and voluntarily.

Dated this ____ day of July, 2013

Dated :

(Signature)

JUL 30 2013

Foran R Hawkins

Ada County Jail

7240 Bonister

Boise ID 83704

CHRISTOPHER D. RICH, Clerk
By AMY LYCAN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v.

Foran R Hawkins
Defendant

Case No CR-FE-2007-5

Motion to dismiss do to the fact the state
can not produce a valid indictment

Comes now Foran R Hawkins, defendant, Pro se, and motions this court as to the following:

1. Grand Jury is out of its term of service
2. Grand Jury was not properly impaneled
3. Judges order seating Grand Jury is unsigned
4. Roger Bourne violated and failed his expressed duty

A. 6.2 A

B. 6.2 B

C. 6.2 C

D. 6.2 D

E. 6.2 F

These are expressed duties, clear and unambiguous, requiring indictment to be dismissed. State v Dalling.
No indictment is valid without a probable cause finding, which is impossible without 6.2 d.

5. The defendant is unconvicted, unseized, the court is required sua sponte subject matter jurisdiction finding.
Set for oral argument within 14 days from this 14th day of July 2013
Dated this 14th day of July 2013

Foran R Hawkins

Procedure for Pro Litigants Reading PC

Faron Hawkins

NO. Fe 07 - 5
A.M. 10 FILED P.M.

Rule 4 of the Idaho Criminal Rules provides in relevant part:

JUL 30 2013

CHRISTOPHER D. RICH, Clerk
By AMY LYCAN DEPUTY

(e) **Hearing to determine probable cause. ... The facts which the magistrate considers in determining probable cause shall be placed ... in affidavit form and attached to the complaint.**

A citizen requesting an opportunity to appear before a judge to read probable cause is not automatically entitled to such a hearing. The Court can require that the facts necessary to determine probable cause be placed in Affidavit form and attached to the proposed complaint.

The procedure for dealing with this problem should be:

The Clerk informs the citizen that he/she must submit in writing a proposed criminal Complaint identifying:

- the State, county or local statute which has been violated and
- who allegedly violated the law.

Affidavit. There must also be a detailed affidavit or description of when and how the offense occurred. The Affidavit must contain "all facts as to whether an offense has been committed and whether the defendant has committed it."

If this information is not provided the Clerk will inform the citizen that no probable cause hearing will be set.

If this information is provided the Clerk will inform the citizen that the matter **must be reviewed by a judge before** a probable cause hearing will be set.

A private citizen cannot simply walk into the courthouse and get a probable cause hearing set.

The hearing can only be set if the matter is first reviewed by a judge. If the Judge determines that testimony under oath is necessary to determine whether or not Probable Cause exists then a Probable Cause hearing shall be set.

JUL 30 2013

Foran R Hawkins
 Ada County Jail
 7210 Barrister
 Boise ID 83704

CHRISTOPHER D. RICH, Clerk
 By AMY LYGAN
 DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

State of Idaho
 Plaintiff
 v
 Foran R Hawkins
 Defendant

Case No. CR-FE-2007-5
 Defendants Response to States Motion for Court to Take Judicial Notice of
 Prior Proceedings and Retroactive Competency Findings
 And
 Motion for Rule 16 Discovery including
 all "Brady material"

Comes now Foran R Hawkins defendant Rose and moves the court to

1. Deny States request to let prior retrocompetency ruling stand do to:
 - A. State fraudulently falsified record, testimony, evidence before Estes & Sampkin
 - B. State knowingly delayed defendants ordered new trial
 - C. CR-FE-2007-5 proves evidence the state used to obtain ruling was falsified, fraudulent.
 - D. Defendants current motions show state created a fake instrument of record to obtain ruling.
 - E. state failed to release all "Brady material" in CR FE 2007-5
2. Court failed to meet all the standards required for retroactive competency before ruling.
3. Court failed to Foretta defendant, not meeting required Foretta prior to any retroactive comp. and all other proceedings in 2010, 2011.
4. state has failed to provide defendant with any discovery at all as of this date, making it impossible to argue defense or hearings.

Dated this 14th day of July 2013

Foran R Hawkins
 Foran R Hawkins

Faron R Hawkins
Ada County Jail
7210 Barnster
 Boise Id 83704

NO. _____
A.M. 10 FILED _____
P.M. _____
JUL 30 2013
CHRISTOPHER D. RICH, Clerk
By KELLE WEGENER
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v

Faron R Hawkins
Defendant

Case No. CR-FE-2007-5

Defuses Objection to Judge McLaughlin's Ruling to Stay
all Defense Motions until After August 29th 2013 Hearing.

And

Motion for Impartial Judge to Hear all unheard Motions.

Comes now, Faron R Hawkins, the Defendant and moves the court as to the following:

1. Motions are required for a proper defense, directly impact the upcoming hearing and must be ruled upon prior.
 2. Judge has received Motion to Disqualify himself and under law it must be heard prior to any further hearing.
 3. Judge is required by the defense to be a witness as to his statements regarding the defendant on the record.
 4. Judge made himself a required witness by making observations and forming opinion as to defendant.
 5. Judges fitness is in question by his statement "you don't need discovery", this shows bias, prejudice,
 6. Judge calls a status conference but will not let defendant speak to notify the court of status and issues.
 7. Judge refuses to hear motion that he does not have subject matter jurisdiction as to Grand Jury was not properly impeached within his authority, term of service. This again calls into the Judges fitness to sit as a Judge.
 8. Judge refuses to hear a motion that he knows proves the state admitted falsified official record as he has stated he has reviewed the entire file more than twice, yet for some reason wants to allow a fraudulent ruling to stand.
 9. Judge failed a required foreita that invalidates all proceedings atleast back to Dec. 8th 2010 including the Idaho Supreme Court decision that the Judge has set the August 29th 2013 hearing for.
 10. Defense is unable to gain back library through the court and is denied at the Jail, 1 hour in 3 weeks only.
 11. Defense is unable to gain release of funds for payment to a psychiatric doctor because Judge will not rule.
- Due to these reasons as well as all other unheard motions, move for impartial judge to provide and hear
- Dated this 17th Day of July 2013.

Faron R Hawkins
Faron R Hawkins

000217

Faron R. Hawkins
Ada County Jail
7216 Barrister
Bose Id 83704

JUL 30 2013

CHRISTOPHER D. RICH, Clerk
By AMY LYCAN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v

Faron R. Hawkins
Defendant

Case No. CL-FE-2007-5

Motion to Disqualify Judge Michael McLaughlin for Cause
Under Rule 25 And under
Code of Judicial Conduct Canon 3 (E)(1)

Comes now Faron R. Hawkins, defendant, Pro Se, Motions to Disqualify Judge McLaughlin for cause

1. Code of Judicial Conduct Canon 3 (E)(1) Judge shall disqualify himself in a proceeding in which the Judge's impartiality might reasonably be questioned including but not limited to: (A) ... personal bias or prejudice ... personal knowledge of disputed evidentiary facts ...

A. Judge McLaughlin is on the record stating he has personal knowledge of disputed evidentiary facts that will be argued, presented, testified to, and ruled upon in the upcoming August 29th 2013 hearing. This is a critical hearing that places the defendant in jeopardy of being resentenced by the very Judge that the defense requires for a witness in that hearing. The Judge's stated observations, opinion is directly based in the disputed evidence that is required for proper defense.

B. Judge McLaughlin on the record has stated he has already formed an opinion and believes the defendant is retroactive competent, and will proceed with the August 29th 2013 hearing under that opinion and with the defense at a disadvantage. This shows the Judge is biased, prejudiced and will not conduct the hearing in an impartial manner. This clearly gives grounds to question the Court's impartiality in the proceeding and to rule upon the disputed evidence presented.

C. Judge McLaughlin made himself a witness in the upcoming hearing for the defense, which will subpoena the Judge.

D. The state is on the record stating that the Judge has stated he has made observations regarding the mental state of the defendant and formed an opinion as to the defendant during the course of the proceedings. Showing prejudice.

E. Judge McLaughlin in the July 17th 2013 hearing at 4 pm stated to the defense "You don't need discovery", on the record, when defendant stated he still had not received discovery from the state as of that date. This proves the Judge is biased, prejudiced, as he would never deny discovery to a defense counsel. For a Judge to make such a statement on

the record proves the Judge is so extremely prejudiced to deny, or even want to deny such a fundamental due process violation that it causes the defense to seriously question whether Judge McLaughlin is fit to be a sitting Judge or can provide a fair proceeding. F. In 2006, 2007, 2008, up until Jan. 8th 2008 Judge McLaughlin had denied the defendant all copies of discovery to keep, only on the second day of trial when the defendant again Motioned for discovery did he receive, some, discovery and was admonished for the request by Judge McLaughlin. Judge McLaughlin stated on the record in 2007, "if I think you need it, I will give it to you", when defendant had again asked for discovery. To openly deny the defendant all copies of discovery to keep, review, prepare for trial is a violation of the United States Constitution. McLaughlin does not restrict the Prosecution but habitually denies, restricts the defendant to prepare a proper defense.

G. Judge McLaughlin ruled to "stay" all defense motions until after the August 29th 2013 hearing. McLaughlin did this on July 17th 2013. This is so unfairly prejudicial, it proves bias, prejudice, how can the defense put on a proper defense when the issue of Prosecutorial Misconduct, fraud, took place in the last hearing on Nov. 12th 2010 and was never corrected. How can the defense argue a position that is fraudulent with a Judge that ruled that the fraud is true. The Judge refuses to correct absolutely falsified record in his court that he has stated on the record that he has reviewed, read at least twice, that prove his ruling and record is based in fraud, yet refuses to hear the motion. Intentionally blocking the state and Judge from being proven as a fraud. This is so biased, unfairly prejudicial that it makes it impossible for the defense to have justice and remedy,

H. Judge McLaughlin denied Motion that Court lacks Subject Matter jurisdiction because the indictment is invalid due to the fact the indictment was not properly founded, signed, endorsed with Judges order properly seating the Grand Jury in their term of service. When Judge refuses to dismiss when he does not even have jurisdiction, it is prejudice. State v. Darling...

I. Judge McLaughlin denied hearing Motion for Court ordered law library when he knew defendant has only been given 1 hour in four weeks at Ada County Jail, which makes it impossible to learn the law and prepare for the proceedings.

J. Judge McLaughlin denied hearing motion for medical treatment which is extremely biased, prejudicial toward defendant to the point of being callous to ward proven medical needs, which includes symptoms of heart attack, edema, gout, back pain, etc...

K. Judge McLaughlin refuses to admit 18-3201, 18-3203. Complaints against Roger Bourne, and Tom Brunetti's for fraud.

L. All other unheard motions the defendant objected to not being heard.

Set for oral argument at the earliest, within 14 days so not to delay.

Dated this 17th day of July 2013

R. Hawkins
Rory R. Hawkins Pro Se

Faron R. Hawkins
Ada County Jail
7210 Sunnyside
Banc Id 83704

NO. _____ FILED _____
A.M. 10 P.M. _____

JUL 30 2013

CHRISTOPHER D. RICH, Clerk
By AMY LYCAN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v
Faron R. Hawkins
Defendant

Case No CR-FE-2007-5

Notice of Appeal Judge Michael McKaughlin Ruling
to stay all unheard Motions until "Maybe" after the
hearing.
Rule 45

Comes Now Faron R. Hawkins, Defendant, Pro Se, giving Notice of Appeal under Rule 45 and
sets forth the following:

1. Judge Michael McKaughlin ruled on July 17th 2013 to stay all unheard Motions until "maybe" after
the August 29th 2013 hearing.

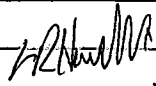
A. This unfairly prejudices the defense because the defense must argue a fraudulent record and ruling.

B. the motions all directly cite the the defense, not arguing them gives the state a prejudicial advantage.

2. Motions for the Court to sua sponte Subject matter jurisdiction is a requirement under Idaho law
Motion to correct the record regarding proven prosecutorial misconduct
Motion to disqualify the Judge for bias, prejudice and because he is a material witness etc...
all other unheard motions violate defendants due process rights guaranteed by the constitution and
proves prejudice and bias, clearly giving the state an unfairly prejudicial advantage.

On this and other issues regarding the ruling on July 17th 2013 including the Judge's statement,
"you don't need discovery", the defendant sets this Notice of Appeal before the court on this

17th day of July 2013


Faron R. Hawkins

Time	Speaker	Note
4:04:10 PM		CR-FE-07-00005 State vs. Hawkins Status Hearing
4:04:12 PM		Ms. Bennetts present for the State, Mr. Hawkins present prose. Mr. Cahill present as standby counsel.
4:05:16 PM	Judge	Have you been able to visit with Dr. Cruzen?
4:05:35 PM	Mr. Hawkins	I don't even know who that is. It is Robert Colinger who will be doing that
4:06:00 PM	Judge	Have you visited with him?
4:06:05 PM	Mr. Hawkins	He is awaiting verification of payment, I do not know how you want to work that?
4:06:27 PM	Judge	When do you talk to Dr. Colinger last?
4:06:34 PM	Mr. Hawkins	I spoke to him through email two and a half weeks ago when Erik Frederickson emailed him for me.
4:07:08 PM	Judge	Awkward situation here. Does the Doctor know he will be compensated
4:07:24 PM	Mr. Hawkins	He has given us his rates and he is awaiting verification of payment from whoever will be paying.
4:07:45 PM	Judge	Has he been provided with the order of the court, the court signed an order to that effect? Do you now what his rates were?
4:08:14 PM	Mr. Hawkins	\$450/hour. If you want him to come it will be additional airfare and lodging. He is in St. Louis. He is the head of the psychiatric department in Washington University.
4:09:20 PM	Judge	Why are we not using a local doctor?
4:09:27 PM	Mr. Hawkins	He is one of the top 10 psychiatrists. His testimony has been heard before the 9th circuit and he is considered an expert.
4:09:39 PM	Judge	I did not know Mr. Frederickson spoke to a physiatrist out of St. Louis. What is the state's position?
4:10:24 PM	Ms. Bennetts	The state issued an order or said reasonable costs. We would need to verify that he is doing the work, has been contacted and planned on doing that. Submit an invoice to the court to review and approve. The court would need to determine it reasonable.
4:11:18 PM	Judge	What is his expertise?
4:11:25 PM	Mr. Hawkins	He is one of the top ten in the world. He is a medical doctor is psychiatry and medics. He is professor. He is considered to be an expert by the 9th circuit. They had a problem findings doctor locally that his work would be enough to overshadow the precious doctors used. A neuro psychologist. Frederickson and another attorney considered what was paid to the other doctors previously would be more that this one.
4:12:49 PM	Judge	In order for him to do the psychiatric eval I think he would have to come see you, I wouldn't think you could do it by phone.
4:13:13 PM	Mr. Hawkins	He has done video conferences if that is acceptable by the court. Ask for him to come here.

<u>4:13:32 PM</u>	Judge	I want you to have a psychiatrist evaluate you that is experienced and competent. I think there has to be some reasonableness to it. There hasn't been a showing that a psychiatrist could be found within a 500 mile radius or even in Boise. I had no idea this doctor was in Missouri. We will vacate the hearing on 8-29-13. Mr. Cahill please work with MR. Hawkins to get him a psychiatrist within a 500 mile radius of Boise Idaho. I can't find at public expense to bring someone in from Missouri is reasonable. I will let you work with Mr. Cahill to look over a list of psychiatrists. Seattle, Portland or Salt Lake would be reasonable. Once I get the name I will need to know the rate and everything else.
<u>4:16:06 PM</u>		I will note that you object Mr. Hawkins
<u>4:16:19 PM</u>	Mr. Hawkins	I would like two doctors
<u>4:16:26 PM</u>	Judge	This is regarding Dr. Estess's testimony.
<u>4:16:39 PM</u>	Mr. Hawkins	How about the other doctor?
<u>4:16:47 PM</u>	Judge	I don't know that he will be called. I will give you a well qualified psychiatrist. When can we come back and talk about a new psychiatrist.
<u>4:17:15 PM</u>	Mr. Cahill	I am not sure
<u>4:17:43 PM</u>	Judge	We will have this hearing on August 29th at 9am.
<u>4:17:56 PM</u>	Mr. Hawkins	I object to you moving the hearing date on August 29th.
<u>4:18:11 PM</u>	Judge	I will note your objection. The other matters raised will not be heard prior to getting he retroactive competency hearing.
<u>4:18:34 PM</u>	Mr. Hawkins	I need a ruling on the appeal
<u>4:18:41 PM</u>	Judge	It's not an appealable order at this point.
<u>4:18:58 PM</u>	Ms. Bennetts	Nothing Further
<u>4:19:01 PM</u>		End of Case

Faron R Hawkins
Ada County Jail
7218 Barnster
Boise ID 83704

AUG 05 2013

CHRISTOPHER D. RICH, Clerk
By CHARLOTTE WATSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff
v
Faron R Hawkins
Defendant

Case No. CR-FE-2007-S

To Supplement the record and
Motion to reconsider Defendants Request for Dr. Robert
Cheney MD for Evaluation and Ruling denying that and
all other motions at hearing dated July 31st 2013 And
Rits Court on Notice defense will not accept another Psychiatrist

Comes Now Defendant, Faron R Hawkins, Pro Se, and states as follows:

McLaughlin has authorized payment for two state doctors, but grants defense only one, and:

1. Judge McLaughlin's denial of the defense's choice of one of the top psychiatrists in the world simply because he lives beyond a 500 mile radius of Boise is ridiculous. To place such a restriction upon the defense is unreasonable and questions Judge's sanity.
2. Judge McLaughlin was not interested in placing a limit to the costs, just a mile limit.
3. Judge McLaughlin's ruling purposely reduced the quality of a defense's witness found the State and his ability to make a prejudicial ruling for the State's doctor.
4. Judge McLaughlin vacated the August 29th 2013 hearing, causing further delay without good cause.
5. Judge McLaughlin's act of removing the defense's choice and undisputed authority in the field to purposely allow the Public defender's office and the Judge control other choices is prejudicial.
6. To purposely vacate the calendar under defense's objections simply to deny the defense choice and manipulate defense's choice to 500 miles is clear manipulation and limiting defense.
7. Court had it was noticed who Cheney was, credentials, when he was from Nov. 12th 2010 finding that Defense made its choice, believes the Judge can not be trusted, has acted in bad faith, so defense asks the Court to keep the August 29th 2013 date because the court was informed, even asked who the Doctor was on the record Nov 12 2010 and subsequently after. Defense is tired of a Judge out of touch with the law, who stays defense motions, but honors all prosecution. Judge is Bias, prejudicial and defense will not participate with the Public defender. Defendant has sat in the jail for 3 years unconvicted, denied due process.

Dated July 31st 2013

FR Hawkins

000223

Faron R Hawkins
Ada County Jail
7210 Barnister
Boise ID 83704

NO. _____
FILED P.M. 5:00
A.M. _____

AUG 05 2013

CHRISTOPHER D. RICH, Clerk
By CHARLOTTE WATSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v
Faron R. Hawkins
Defendant

Case No. CR-FE-2007-5

Defenses Memorandum of law why the State and this
Court can not lawfully find the defendant retroactively
Competent.

Comes now Faron R. Hawkins, defendant, by and through the undersigned, and states the following law:

1. Maxwell v. Roe No. 08-55534 May 20, 2010 9th Cir. gave their law of the case as "Because we can not conclude that a retrospective competency hearing would be possible here, we remand with directions to grant Maxwell a writ of Habeas Corpus. The state remains free to retry Maxwell."
2. State v. Hawkins 148 Idaho "Because it is not possible to retroactively make a determination as to Hawkins' competency at the time he was tried, we must vacate the judgment of conviction and leave the state free to retry."

A review of these cases, proves the Court of Appeals did get it right, it is the law of the case and the State incorrectly applied an unreasonable application of clearly established federal law. The sentence, statement is necessary to the ultimate decision of the court, vacated, free to retry. No retroactive determinations. This 9th circuit case out of California requires Idaho to comply, as it is Idaho's appellate circuit. The statements by the Courts in both cases are virtually identical, as well as general case review.

2. In the United States District Court N.D. California Kendall Lavanon Burton Petitioner v Matthews Date Respondent No. C-10-0471-EMC Dec. 20th 2012 Held that:

- A. Trial Courts failure to conduct a competency hearing violated petitioners due process rights.
- B. Trial Judges failure to sua sponte a competency hearing at time of trial violated petitioners due process.
- C. Reasonable Judge in position of trial Judge would not have experienced doubt about petitioners competency to stand trial was an unreasonable determination of facts.

000224

D. State must either release petitioner or retry him. No retroactive determination. See *Maxwell v. Roe*.

This view was made very clear in the Idaho Court of Appeals decision: "Trial Court abused its discretion" this fulfills the fact Judge McLaughlin made an unreasonable determination denying due process.

3. The Idaho Court of Appeals statement mirrors Burton when they said the trial Judge had substantial, even overwhelming evidence of incompetency. The trial court's failure to hold a sua sponte hearing on petitioner's incompetency at time of trial "violated his due process rights". See *Pate v. Robinson* 383 U.S. at 386, 86, S.Ct. 836 "While defendant's demeanor at trial might be relevant to the ultimate decision as to his sanity, it can not be relied upon to dispense with a hearing on that very issue," during trial.

4. In Burton ~~the~~ the court stated "the record is sparse and not sufficient to allow a retroactive hearing". The same in Hawkins, no expert witness to observe Hawkins, no experts evaluated Hawkins prior to or during trial. In Burton 6 years passed from trial to hearing, In Hawkins 6 years has passed. Dusky, Pate, Drope, Maxwell, Burton all support Hawkins that retroactive is not possible.

5. In Hawkins we have a added element he others do not, that further makes retroactive impossible. "Pro Se" status. This is a glaring due process violation proven by the Idaho Court of Appeals ruling, Judge McLaughlin abused his discretion. This leaves no doubt as to a clear due process violation as the Judge incorrectly and unreasonably applied a clear standard of federal law. It is fundamentally unfair to allow a mentally incompetent defendant represent himself. The Idaho Court of Appeals based their decision upon clearly established federal law. It is impossible to know how detached from reality Hawkins was at the time of trial as the normal standards could not be met. one of these requirements is the ability to assist counsel in his own defense. According to the Idaho Court of Appeals, which go into Hawkins behaviour at length, they clearly based their decision on the fact a reasonable trial judge would have had to believe Hawkins was detached from reality, thus leaving a mentally incompetent defendant at the wheel of his own defense. The Idaho Court of Appeals came to that decision simply based upon the trial record and other supporting evidence, clearly established federal law, Hawkins due process guarantees were denied.

6. Dr. Estes, who never tested, interviewed or even spoke to Hawkins conducted a evaluation according to Estes. No reasonable court could have found clear and convincing evidence of Hawkins competency based upon Estes testimony. Defense has searched cases in federal court and can not find one that found a clear and convincing decision based on such a unreasonable application of clearly established federal law, ~~therefore~~:

7. In Hawkins a Dr Garrett was so concerned about Hawkins after he was found unresponsive, that Hawkins was sent to St Luke's Hospital by ambulance. For approx 3 days Hawkins was not situated in time or place. Did not know his name, spoke jargonish or some foreign language. Dr Garrett ordered a MRI scan and EEG scan at St Luke's for possible tumors or brain damage. This took place around July 8th thru the 11th 2007. Just 6 months prior to Hawkins trial, while Hawkins was Pro Se, and again the trial judge or the state did not question the need for testing. McLaughlin did not even request the test results from medicals before allowing Hawkins to proceed after the "psychotic break" as Dr Garrett called it. McLaughlin did not contact Hawkins after the "break" before allowing Hawkins to continue Pro Se.

8. McLaughlin on July 31st 2013 on the record does not intend to allow sample to testify, the only doctor who has told Hawkins, who found Hawkins incompetent, then was given fraudulent records by state to "change his mind". There was overwhelming evidence that clearly should have put Judge McLaughlin on notice, if he would have acted in a reasonable manner that the Court of Appeals clearly saw on their own. There can be no retroactive competency determination, no experts present, no testing during trial, no counsel to consult with as to Hawkins mental state during trial.

The defense moved for dismissal of the indictment and the case for clear error and an unreasonable application of clearly established federal law denying defendant due process.

This Court could not provide a fair trial the first time, or fair proceedings after it is ordered to, nor can it properly interpret law. The defendant is unfairly prejudiced in violation of fundamental constitutional law and established federal law.

Dated this 29th day of July 2013


FRANK
Frank R. Hawkins

Certificate of Service

I Fern R Hawkins do hereby state I put a true and correct copy of the foregoing in the United States mail on this 31st day of July 2013 mailed to.

Ada County Courthouse
Ada County Presanger
200 W Front
Boise Id 83702

Ada County Courthouse
Ada County Clerk
200 W Front
Boise Id 83702


Fern R Hawkins

AUG 07 2013

CHRISTOPHER D. RICH, Clerk
By AMY LYCAN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

FARON RAYMOND HAWKINS,

Defendant.

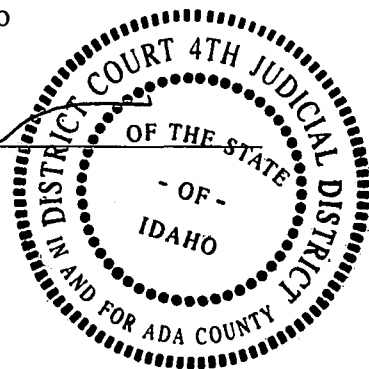
Case No. CR-FE-07-00005

NOTICE OF HEARING

PLEASE TAKE NOTICE That the Honorable Michael McLaughlin, District Judge, has set this matter for a Status Hearing on August 29th, 2013 at 9:00 a.m., at the Ada County Courthouse, 200 W. Front, Boise, Idaho.

Christopher D. Rich
Clerk of the Court
Ada County, Idaho

By: [Signature]
Deputy



AL

CERTIFICATE OF MAILING

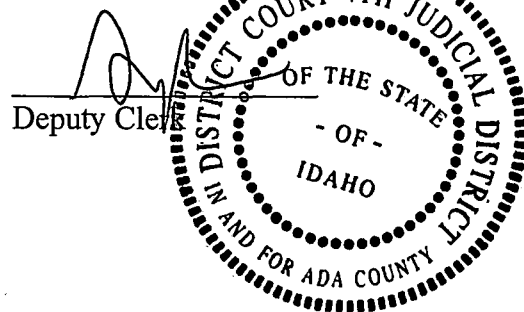
I hereby certify that on this 7th day of August, 2013, I mailed (served) a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTING ATTORNEY
ATTN: JAN BENNETTS
INTERDEPARTMENTAL MAIL

ADA COUNTY PUBLIC DEFENDER
ATTN: AUGUST CAHILL
INTERDEPARTMENTAL MAIL

FARON HAWKINS
c/o ADA COUNTY JAIL
7200 BARRISTER
BOISE, ID 83704

CHRISTOPHER D. RICH
Clerk of the District Court
Ada County, Idaho



AUG 13 2013

CHRISTOPHER D. RICH, Clerk
By AMY LYCAN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

FARON RAYMOND HAWKINS

Defendant.

Case No. CR-FE-2007-00005

MEMORANDUM DECISION
AND ORDER

Attorney for the Plaintiff: Jan Bennetts

Attorney for the Defendant: Pro-se with Standby counsel August Cahill

The Court had set July 31, 2013 for a status conference for the upcoming retroactive competency hearing scheduled for August 29th. The State of Idaho was represented by Jan Bennetts and the defendant was pro se with standby counsel August Cahill. The defendant has filed numerous motions many of which are not germane to the sole issue before this court and that is the competency of the defendant during his jury trial. The Court has repeatedly advised the defendant that the only issues this Court will hear at this time are those motions that pertain to his competency status during his trial in 2007. The Court will deny the Motion to strike the testimony of Dr. Estes because there is no basis in fact or law to grant such a motion. The remaining motions will be suspended pending the hearing on competency.

On July 31, 2013 the defendant disclosed for the first time, nearly four months after this case was remanded to this Court for a retroactive competency hearing that his proposed expert psychiatrist was from St. Louis, Missouri. ¹After hearing from the defendant that the cost for this psychiatrist would be \$450 per hour and that he

¹ The defendant had not actually hired the expert from St. Louis and indicated the expert needed to be paid for his services.

would need to be compensated for potentially two trips to Idaho to analyze the defendant and testify in court, the Court estimated that the cost could easily exceed \$20,000.

The defendant made no showing to the Court that this out of state expert could provide a level of expertise that local psychological experts could provide to the Court to challenge the finding by the State's expert that the defendant was competent to stand for trial in 2007. There are many qualified psychologists and psychiatrists in Idaho that have been qualified to provide expert testimony to Idaho Courts that could be utilized by the defendant to challenge Dr. Estes's opinion that the defendant was competent during his trial in 2007.

The Court announced that there was no basis for appointing an expert from Missouri at public expense. The Court had indicated that the defendant with the assistance of his standby counsel, August Cahill, could obtain an expert within five hundred (500) miles of Boise, Idaho. Upon further reflection and review of the State Board of Medicine list of psychologists and psychiatrists there are many qualified experts in this field in the Boise, Nampa, Caldwell and Twin Falls area that could provide expert opinion to the Court regarding the defendant's competency to proceed now and retroactively. Therefor the defendant shall select his expert witness within the local area described above.

The defendant with the assistance of his standby counsel shall submit to the Court in writing the name of his expert witness on or before August 29, 2013. Failure to submit the expert by that date could result in the Court precluding the defendant from presenting expert testimony at the retroactive competency hearing, unless good cause is presented to the Court.

The defendant shall submit to examination by his expert witness within thirty (30) days from the date of disclosure of the defense expert. In the event that the defendant refuses to submit to examination by the defense expert witness, the defendant's expert will notify the Court, the defendant, the Ada County Prosecuting Attorney and August Cahill within three (3) days of such refusal. Failure of the defendant to submit to examination within this time period will preclude the defendant from presenting expert witness testimony at the retroactive competency hearing.

The expert witness shall upon examining the defendant submit a written report setting forth his opinion and the basis of his opinion within twenty one (21) days from the date of examination of the defendant to the defendant, standby counsel, the Ada County Prosecuting Attorney and the Court.

IT IS SO ORDERED.

Dated this 13th day of August 2013.



MICHAEL MCLAUGHLIN
Senior District Judge

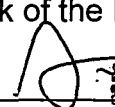
CERTIFICATE OF MAILING

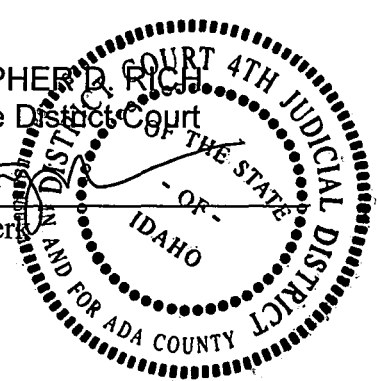
I hereby certify that on the 13th day of August 2013, I mailed (served) a true and correct copy of the within order to:

ADA COUNTY PROSECUTING ATTORNEY
ATTN: JAN BENNETTS
INTERDEPARTMENTAL MAIL

ADA COUNTY PUBLIC DEFENDER
ATTN: AUGUST CAHILL
INTERDEPARTMENTAL MAIL

FARON HAWKINS
c/o ADA COUNTY JAIL
7200 BARRISTER
BOISE, ID 83704

CHRISTOPHER D. RICH
Clerk of the District Court
By  Deputy Clerk



*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 3222
RECIPIENT ADDRESS 95773079
DESTINATION ID ACS0 Inmate Rec
ST. TIME 08/13 08:56
TIME USE 02'15
PAGES SENT 5
RESULT OK

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
STATE OF IDAHO

Ada, Boise, Elmore
and
Valley Counties

Telephone
(208) 287-7500

Fax
(208) 287-7529



MAIN OFFICE
ADA COUNTY COURTHOUSE
200 W. FRONT STREET
BOISE ID 83702-7300

FAX

5 PAGES INCLUDING THIS COVER SHEET

DATE: 8-13-12

DELIVER TO:

Name: Faron
Hawkins

-In Custody at ACJ

FAX NO. 577-3079

Document(s) Being FAXed:

Memo Decision &
Order

FROM:

Name: Judge McLaughlin

Dept: _____

Phone: 287-6984-clerk

Address: _____

FAX NO. (208) 287-7529

If you have any problems with this transmission, please call 287-7500.

000234

AUG 27 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

Faron R. Hawkins
Ada County Jail
7210 Barnster
Boise Id 83704

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff - Respondent
vs
Faron R. Hawkins
Defendant - Appellant

Case No. CR-FE-2007-5
Case No.
Notice of Appeal
And
Motion for Permission to Appeal

To: The above named respondents, State of Idaho, and the Clerk of the Court of Ada County
Notice is hereby Given That:

1. The above named appellant, Faron R. Hawkins appeals against the above named respondents to the Idaho Supreme Court from the order, decision, *memorandum*, entered in the above entitled proceeding on August 13th 2013 of Judge Michael McLaughlin, violating the law of Mandate, application of law.
2. That the appellant has a right to appeal to the Idaho Supreme Court and the order described in paragraph 1 above are appealable orders, Judgment pursuant to Rule 12, 14, 17, IAR. 11
3. A preliminary statement of the issues on appeal which the appellant then intends to assert in the appeal: include but not limited to a controlling question of law where there is substantial grounds for difference of opinion and which immediate appeal from the order may materially advance an orderly resolution. Issues involve both Fact and law with the Judge and Prosecutor applying an incorrect and unreasonable application of Fact and law. Appellant shall not be prevented from asserting other issues upon appeal.
4. Reporter's transcript is requested for all proceedings in the above case for June, July, August 2013 IAR 25(A).
5. A copy of this Notice has been served upon the Clerk of the Court, Court reporter, and above parties.
6. Appellant is exempt from paying fees, costs, as he is pro se and is declared indigent by the Court.
7. Copy of this Notice has been served upon the Idaho Attorney General of Idaho.

Dated this 18th Day of August 2013

Faron R. Hawkins
Faron R. Hawkins

Faron R Hawkins
Ada County Jail
7216 Barrister
Base Id 83764

AUG 27 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

IN THE DISTRICT COURT FOR THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v

Faron R Hawkins
Defendant

Case No. CR-FE-2007-5

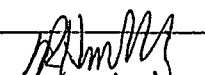
Motion for Court Ordered Discovery
And

Motion in limine to deny any evidence or witness
testimony not disclosed by the discovery.

Comes now Faron R Hawkins Defendant, Pro Se, and motions this Court to order the State to provide full discovery as to the following:

1. Bourne, Bennetts for the State have admitted into the record a statement that alleges that the discovery provided by Eric Fredericksen may have come from "other" sources than themselves. This undoubtedly is a attempt to distance themselves from the fact they falsified official record. Yet it places the defense in a position that if it does have evidence not in the possession of the Ada County Prosecutor, the defense may not want to disclose it. Therefore the defense must know exactly what the State has, and has not. The only way this can be done is by a complete disclosure so the defense can be assured it has everything that the State has.
2. The defense can not comply with States request for discovery until it knows what they have and do not have.
3. To make a proper defense the defendant must have all state discovery including, all rule 16 and "Brady material" it intends on using at the upcoming hearing. Defendant will ask that the State be barred from admitting any other evidence or witnesses other than produced

Dated this 18th day of August 2013


Faron R Hawkins

000236

Faron R Hawkins
Ada County Jail
7216 Barrister
Butte Id 83704

AUG 27 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

IN THE DISTRICT COURT FOR THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v
Faron R Hawkins
Defendant

Case No. CR-FE-2007-5

Motion for Sanctions Against

Ada County Sheriff Gary Roney

For Denying Subpoena Service.

Comes Now Faron R Hawkins, Defendant, Pro Se. Moves this Court for order and sanctions

1. Defendant Served lawful Subpoenas issued by the Clerk to Ada County Sheriff's Deputy Love. Deputy Love returned Subpoenas after about one and a half hours stating that his Supervisor had spoke to Sgt Staldering, Ada County Sheriff's dept and told Deputy Love to return the Subpoenas. This is lawful delivery from the defendant to the Ada County Sheriff's dept. Defendant ignored the denial and it is a matter of record.

2. Subpoenas were for Gary Roney Ada County Sheriff to produce defendant's jail medical files required for proper defense and upcoming hearings. Second was to St. Luke's for defendant's medical MRI and EEG files that have never been produced. Third was to Idaho Dept Health and Welfare for children's interviews that contain the children stating they knew the defendant used to work for CIA, DIA and that their mother knew about it as well. It also contains proof that the Ada County Prosecutor falsified police reports and record in that case.

Defendant therefore requires sanctions and an order producing these within 72 hours.

Dated this 18th day of August 2013

Faron R Hawkins
Faron R Hawkins

AUG 27 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

Faron R. Hawkins
Ada County Jail
7210 Barrister
 Boise Id 83704

IN THE DISTRICT COURT FOR THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff
v
Faron R. Hawkins
Defendant

case No. CR-~~CR~~FE-2007-5

Motion for Removal from Ada County Jail

Due to Reckless endangerment

Comes Now Faron R. Hawkins, Defendant Pro Se as follows.

On August 20th 2013 approx 9:50 AM while in the law library Deputy Hessing walked into the law library, walked over to another deputy that was close to another inmate and began stating inmate of the other inmate that the defendant was PC and went on discussing personal information about defendant. This other inmate heard everything, ~~and~~

This is not only a major policy violation for a Ada County Deputy, but is an act so completely deliberate it requires the deputies firing and the defendants removal to another facility. This act by a Ada County deputy, that the defendant had just arrived earlier that day for an unrelated issue proven untrue and has placed a PC packet on the defendant that word will reach the prison and all areas of the jail. This deputy Hessing had to do this deliberately or his IQ would have to be so dysfunctional he should not be employed here, to ensure safety and security of inmates when he openly endangers.

Demand removal for deliberate reckless endangerment

Dated this 20th day of August 2013

H2/ln/lt

Certificate of Service

I Farou R. Hawkins do hereby state that a true and correct copy of the foregoing was placed in the U.S. Mail on this ~~24th~~^{20th} day of August 2013 addressed to the following parties:

Ada County Prosecutor
Roger Bourne
200 W Front St
 Boise Id 83702

Ada County Court House
Clerk of the Court
200 W Front St
 Boise Id 83702

FR Hawkins

Farou R. Hawkins

AUG 27 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

Faron R Hawkins
Ada County Jail
7210 Barnister
Boise ID 83704

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v.
Faron R Hawkins
Defendant

Case No. CR-FE-2007-5

Defendants Response, Objection to Courts August 13th 2013
Order, Decision, Memorandum and Correct the record.

Comes Now Faron R Hawkins, Pro Se, defendant as follows.

1. Factual history

- A Judge McLaughlin at public expense ordered and paid for two mental health evaluations without placing any limit upon the price or location of the medical doctor. In fact after the Judge stated on the record, "I tell you, do not like the first report" of Dr Sample to Roger Bourne, McLaughlin at public expense ordered Dr Estess to be paid. Therefore over double was paid simply because McLaughlin and the state did not want that report.
- B. McLaughlin accepted Dr Estess report as clear on commencing after Dr Estess testified in the Nov 12th 2010 hearing, even though Estess never interviewed, tested the defendant
- C. McLaughlin allowed commencing testimony without requiring any physical interviews or testing whatsoever.
- D. McLaughlin was told that Dr. Claude Robert Cloninger MD would not cost more than what the state has spent on Dr Estess and Dr Sample of which McLaughlin approved without any good cause showing. McLaughlin clearly ruled with bias, prejudice, to give the state and unfairly prejudicial advantage.
- E. McLaughlin has denied the defense two doctors.
- F. McLaughlin has denied Dr Cloninger MD, a far Superior Doctor who he knows disagrees with his ordered Dr Estess, limiting the quality of the defense doctor, by limiting Defense Doctor to Boise Valley this is of course clear bias, prejudice, as defense is limited to doctors he knows, and can influence.
- G. McLaughlin, presiding over all proceedings in the above case knows the state put on falsified, altered testimony and evidence, as he is on record stating he has reviewed the entire record at least twice, which McLaughlin knows evidence presented was false, yet refuses to correct the lie.

Factual Correction of the Record.

2. Numerous times from Nov. 12th 2010 until present McLaughlin has been made aware of Dr. Robert Cloninger M.D. who is considered one of the worlds best psychiatrists, Geriatricists. A professor of Psychiatry at Washington University St. Louis was, author of hundreds of articles and books. The 9th circuit Court of Appeals ruled him as a overwhelming expert even over the U.S.A. experts.
3. It is without question a deliberate attempt to deny Dr. Cloninger to aid the state to gain a unfair advantage.
4. Defense will require Dr. Estess, Dr. Sample (specifically) to be present as well as Dr. Garrett and others including attorneys to be called. If this court intends on limiting further defense witnesses it needs to make that clear at this time.
5. Court allowed the state to admit Estess testimony without evaluation, interview, testing. The defense if it so decides must be allowed to provide experts to simply review as Estess did.
6. This court order unfairly prejudicing the defense to unfairly prejudicial requirements not imposed upon the state such as required evaluation or can not present expert testimony is without merit or precedent.

The defense restates its position, this court is without authority to reconstruct and reinstate even with a *retracomp* ruling. Invalid indictment the fact the Idaho Supreme Court never reversed the Court of Appeals, the fact the court knows by its own review of the evidence and record that the Prosecutor falsified evidence, the fact McLaughlin found clear and convincing evidence from a Dr. that never tested, or interviewed only further prove the Idaho Court of Appeals knew justice would not be possible in this court. This is a due process violation that can not be cured by *retracomp*. The law of mandate prohibits it.

Dated this 20th day of August 2013

W2N/11

Faron R. Hawkins

Faron R Hawkins
Ada County Jail
720 Barrister
Boise Idaho 83701

RECEIVED
SEP 16 2013

Ada County Clerk

NO. _____
A.M. _____ FILED P.M. 4:00

SEP 16 2013

CHRISTOPHER D. RICH, Clerk
By BRADLEY J. THIES
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff - Respondent
v
Faron R Hawkins
Defendant - Appellant

Case No. CR-FE-2007-5

Motion for Permission to Appeal

Amended

Comes Now Faron Raymond Hawkins defendant - Appellant, Pro Se, Motions for Permission to Appeal to the Idaho Supreme Court after having given notice to the District Court on August 18th 2013 from Judge McLaughlin order, decision, memorandum dated August 13th 2013, timely within 14 days.

The Above named respondents, State of Idaho represented by Roger Bourne, Tom Brumby at 200 West Front St Boise Idaho and Idaho Attorney General Lawrence Wasden Capital building, capital bldg Boise Id, the clerk of the court of Ada County and court reporter at 200 W Front St Boise Id 83702

Notice is hereby given that

The above named appellant Faron R Hawkins appeals against the above named respondents to the Idaho Supreme Court from the memorandum, decision, order, entered in the above entitled proceeding on August 13th 2013 of Judge McLaughlin. The appellant has a right to appeal to the Idaho Supreme Court from the order, decision, memorandum described above as it is a appealable decision pursuant to Rule 12, 14, 17, IAR. An interlocutory appeal is appropriate because it involves a controlling issue of law of which there is substantial difference of opinion regarding the propriety of the order, decision, memorandum and the authority of the court.

The reporters standard transcript is requested for all proceedings including July 29th 2013, July 17th 2013, July 3rd 2013 and the entire case file as well as the clerks record under IAR 28.

And the petitioner Hawkins retroactively competent and reconvict and resentence without holding a new trial as was ordered by the Idaho Court of Appeals. The way he reads this Courts decision is the district Courts now have the power to read and interpret the wording, sentence structure, and if McLaughlin believes a word, sentence is "dictum" he can throw it out. If that word or sentence he believes is unnecessary he can then remove it, and then remove the entire body of the opinion, decision, such as the words "vacated remanded free to retry" and replace it all with, his own ruling that Hawkins is retroactively competent, reconvict, resentence, thus doing away with all higher Courts with this new interpretive power and thus doing away with the Constitutional right of review and remedy.

"Judge McLaughlin applied an unreasonable and incorrect application of clearly established Constitutional and Federal law."

A. Maxwell v Roe No 08-55534 May 20, 2010 the 9th circuit gave their "last of the Case" directive, entered as follows:

"Because we can not conclude that a retrospective competency hearing would be possible here, we remand with directions to grant Maxwell a writ of Habeas Corpus, the state remains free to retry Maxwell... State to provide Maxwell with a new trial in a reasonable amount of time or release him". In Hawkins the Idaho Court of Appeals held that:

"Because it is not possible to retroactively make a determination as to Hawkins competency at the time he was tried, we must vacate the judgment of conviction and leave the state free to retry Hawkins if he is found competent to stand trial."

They are the law of the case, they could have been written by the same person, and Maxwell and Hawkins have the required elements that prove it is not possible to conduct a meaningful retroactive competency hearing. A view of Maxwell makes that clear. 6 years from trial to competency hearing, in both Hawkins and Maxwell. Sparse medical records, no experts were in Hawkins trial to view him, no experts tested or interviewed Hawkins prior to trial. Hawkins had a "psychotic break" that took him by ambulance to St Alb Hospital by order of medical staff. Dr Garrett ordered MRI and EEG he was so concerned Hawkins might have a tumor or brain damage. Hawkins spent over three days not situated in time, place, could not remember his name spoke in gibberish asked to speak to the Israeli Embassy. Very bizarre behavior on or about July 8th thru 11th 2007 just six months prior to Hawkins trial while Hawkins was Pro Se and on medication, and the Judge or the State, fully aware, did not reason that Hawkins should be tested.

In Drope, Darkin, Pate, Maxwell, all had Attorneys, Hawkins was Pro Se, this is a added feature that should require a new trial, Hawkins had no counsel to inform the court of Hawkins mental state, not before trial, during trial. This is a ~~fundamental~~ fundamental tool that can safeguard the defendant of having a fair trial that the defendant can participate with his counsel in providing for his defense. No one can go back and have any idea how out of touch with reality Hawkins was during the 17 months of pretrial pro se proceedings or the week of trial. To go back and make a determination based on a typed record with no experts present to gauge Hawkins mental state and testify at a hearing 6 years later

at a competency hearing, as in Maxwell the higher court said it could not be done. Drope, Dalky, Pate, so in Hawkins, with the added Pro Se status, it would certainly be impossible. Counsel are sometimes the best gauge as to their clients state of mind. The Constitution, and federal laws make it clear, it is fundamentally unfair to let a incompetent person represent themselves. Who was driving the car when Hawkins was Pro Se.

Claim 2

1. In the United States District Court N.D. California Kendall Lavamon Burton v Matthew Pate No. C-10-0471-EMC, Dec. 20 2012. Held that:

- A. Trial Courts failure to conduct competency hearing at time of trial violated defendants due process rights
- B. Reasonable Judge in Position of trial Judge would not have experienced doubt about petitioner competency to stand trial was unreasonable determination of facts
- C. State was required to either release or retry. No retroactive competency determination. see Maxwell v Roe.
- D. Failure of trial Judge to sua sponte a competency hearing is a due process violation that can not be cured by a retroactive competency hearing.

Pate v Robinson 383 us at 386, 86, Sct. 836. Held "while defendants demeanor at trial might be relevant to the ultimate decision as to his sanity, it can not be relied upon to dispense with a hearing on that very issue. Hawkins must have a new trial or be released, his substantive Constitutional rights under this state and federal law require it. Pro Se again plays such a fundamental role in this claim also, as Pro Se, detached from reality, due process was violated."

Claim 3

1. The Constitutional right of review and remedy are the fundamental backbone of the Judicial System. Without it, there is no need for any higher courts, Appellate and Supreme are gone. Here we have the State represented by Roger Baume and Judge McLaughlin arguing over wording that resolved to call "dictum" Yet by there same argument, they lose the argument as to how they can justify overruling the Idaho Courts Appellate decision.

- A. No place does the Idaho Supreme Court state, or even elude to overruling the Idaho Court of Appeals order vacated conviction and free to retry. There is no dictum here, yet McLaughlin and the State believe since they got rid of the one sentence, they can throw the entire opinion, order, directive out.
- B. They state the sentence was not necessary to the opinion. If that is true, then vacated conviction free to retry stand on their own merit.
- C. No place does the opinion of the Idaho Court of Appeals mention the option of retroactive competency determination.
- D. The Idaho Supreme Court does elude to "we are not sure if retroactive competency is appropriate in Hawkins."

Claim 4

1. Ineffective assistance of Counsel failed to properly brief the Idaho Supreme Court as to Maxwell v Roe as the law of the case in Maxwell fully supports the Idaho Court of Appeals in Hawkins. the belief of the Idaho Supreme Court would have had this issue properly argued it would have seen that the decision of the Idaho Court of Appeals that retrocompetency was not possible in Hawkins is firmly founded in clearly established federal law.

Claim 5

1. Prosecutorial misconduct that intentionally falsified, Altered the evidence presented in the competency hearing and ultimately was presented to an unknowing Idaho Supreme Court clearly shows you can not trust the state to conduct a meaningful competency hearing. The states evidence is clearly refuted as false by the state's own discovery in the case. Examples,
 - A. Darcy knew about Hawkins and CIA for over 15 years FISC report 12-15-06, Oregon police reports, Idaho reports, Colorado reports. The state intentionally hid, Altered, falsified the evidence of these reports and never gave them to either doctor, intentionally knowing, fraudulently arguing a knowing false position.
 - B. Dr Sample stated in the record that is the reason he changed his mind, Darcy did not know. But she did.
 - C. Dr Estess, never tested, never evaluated, never interviewed, McLaughlin's unreasonable application of reason to ever even consider Estess completely untrue statements unsupported, and discredited by state discovery that was hidden, his endless use of words make him appear to be unprofessional and bitter.
 - D. Estess, Sample, gave the "completely wrong," symptoms to the illness on the record. Not just a little wrong, 100% wrong.

Claim 6

1. The law of mandate requires Judge McLaughlin to execute the Idaho Court of Appeals opinion. McLaughlin can not vary it, intermeddle with it. McLaughlin is required by the law of mandate to act upon the court of Appeals opinion without variance or examination, only execution. A trial court may not reconsider a question decided by an appellate court. When matters are decided by an appellate court, its rulings, unless reversed by a Superior court, bind the lower court. The Idaho Supreme Court NEVER reversed or overturned the Idaho Court of Appeals decision. They never even mention it. McLaughlin is making an unreasonable decision in direct opposition to clearly established state and federal law, in violation of due process and the Constitution.

Issues

Controlling Question of law

1. Did Judge McLaughlin violate the Rule of Mandate by making a retroactive competence ruling prior to certifying the question to the Idaho Supreme Court in 2011?

If this court decides he did, then the defense-Appellant would ask for that ruling to be stricken from the record, denying that ruling to be used in all future proceedings and have the hearing and evidence presented stricken from the record so it could not be used in further proceedings. This act surely prejudiced the defendant and clearly violated the Court of Appeals order, directive, placing this act of retrocompetency outside of the mandate of the Court of Appeals.

2. Did Judge McLaughlin violate the Rule of Mandate by certifying a question to the Idaho Supreme Court by allowing, granting a permissive appeal outside of the mandate of the Court of Appeals?

"The law, rule of mandate, United States v Garcia-Beltran 9th Circuit Court of Appeals 2006"

"Requires the lower court to act on the mandate of the Appellate Court without variance or examination, only execution"

"When a case has been once decided by this court upon appeal, and remanded to the district court, whatever was before this court, and disposed of by decree, is considered as finally settled the court can not vary it, or examine it for any other purpose than execution, or give any further relief, or review it, **EVEN FOR APPARENT ERROR**, upon any matter decided on appeal or **INTERMEDIATE** with it."

"A trial court may not reconsider a question decided by the Appellate Court. When matters are decided by an appellate court, its rulings, unless reversed by a Superior Court, bind the lower court."

United States Court of Appeals 9th circuit Alberni v Papa No. 08-15551 Dec. 18th 2008

"Court of Appeals ruled, held that the district court violated rule of mandate by certifying question to state court on remand. FRAP 36, federal constitutional law."

The law, rule of mandate is superior to the law of the case doctrine which is a invention of the judiciary. The rule of mandate however is deeply rooted in the law of review and remedy and the United States Constitution as far back as the Judiciary act of 1789.

Judge McLaughlin is clearly abusing his discretion and applying a clearly unreasonable application of clearly established federal law. McLaughlin believes he was given the power to disobey entire Appellate Court, Idaho Supreme Court orders, decisions, directives as long as he perceives that the decision has dictum within its decision. He also believes the Idaho Supreme Courts decisions

enables him to review past or future Court of Appeals decisions and modify them without appeal. McLaughlin has made it clear he reads the Idaho Supreme Court decision that he can throw the entire order, directive, decision, opinion, document out and find the defendant guilty, reconvict, resentence and do so without a trial by jury.

Clearly established federal law, and the United States Constitution require that when the Idaho Court of Appeals issues their decision, staying Judgment of conviction is vacated, it requires another jury to gain another Judgment of conviction as the defendant was tried by a jury not a Judge. McLaughlin sentenced the defendant, he did not preside ~~over~~ the judgment of conviction of the offense.

3. Is Judge McLaughlin violating the Rule of Mandate by denying the defendant a New trial?

The rule of mandate requires McLaughlin to "free to retry if found competent". Now where does the Idaho Court of Appeals give an option of reconvict, resentence without a trial. The rule of mandate requires McLaughlin to obey the higher court without variance, or apparent error. That McLaughlin is bound by the Court of Appeals decision unless reversed by a Superior Court.

The Idaho Supreme Court never reversed, overturned the Idaho Court of Appeals! The Idaho Supreme Court only reversed McLaughlin. Without a Superior Court reversing the Idaho Court of Appeals, McLaughlin is bound by the mandate and is without authority to do anything other than what is specifically contained in the order, directive, decision.

4. Is Judge McLaughlin committing Judicial misconduct by staying all of the defense motions?

McLaughlin is denying all of defense motions for, discovery, he says defendant does not need discovery. Rule 25 to disqualify Judge McLaughlin, is this not clearly denying federal law. This is unfairly prejudicial and gives the state an unfair advantage over the defense.

5. Is Judge McLaughlin committing Judicial misconduct by presiding over a case that he has no subject matter jurisdiction over?

The state does not have a valid indictment to even hold the defendant let alone the authority to reconvict and resentence? Grand Jury was not seated properly with in their term of service ~~with~~ Judges signature affixed. State v. Dalling. McLaughlin continues to hold defendant without authority, denying defendant's constitutional rights.

6. Did the State, by way of Roger Bourne and Jan Bennett's commit prosecutorial misconduct invalidating the Courts ruling in docket 38532 by intentionally soliciting known perjured testimony and committing fraud by altering and falsifying official government, public record to obtain the fraudulent ruling to appeal to the Idaho Supreme Court?

upon remand from the Idaho Supreme Court, Attorney Eric Fiedersheim for the defense was given discovery by Jan Bennett and Roger Bourne. In that discovery it proves that Bourne and Bennett's intentionally altered, falsified, suppressed, their own state official record in the Nov. 12th 2010 hearing, and all hearings after, including the evidence before the Idaho Supreme Court that was used in their decision. Dr Chad Sample changed his mind as to the defendant's mental state because of the fact that the defendant's wife had never heard anything or knew anything about the defendant and the CIA, DIA, Nigel, for their entire time together.

THIS IS A LIE as Bourne and Bennett's own discovery prove.

Bourne and Bennett's intentionally altered, falsified, suppressed all documents and evidence that Dorey, the defendant's wife knew about the CIA, DIA, Nigel, for over 15 years. FBI documents dated 12-15-06 SA Scott Mace, Oregon State Police 8-11-06 thru 8-18-06, Wake County Sheriff, Boise City Police Det. Don Smith, Colorado authorities, Andrus Eds S20060700 thru S20060703. All state discovery held in the possession of Roger Bourne and Jan Bennett's. On Nov 12 2010 and all proceeding after Bourne, Bennett's argue a known false position. They lied, Bourne and Bennett's gave Dr. Estes and Dr Sample a altered, falsified, suppressed stack of evidence deliberately misrepresented to gain a fraudulent ruling. Bourne and Bennett's perpetrated a grand fraud upon the defendant and the Idaho Supreme Court enabled by Judge McLaughlin who ruled in favor of the fraud. Denying the defendant a fundamentally fair proceeding. *Brown v Borg* 9th Circuit 44-91-55148 Prosecutor knowingly relying on false evidence, introducing, requires conviction overturned.

7. Does fraud invalidate a criminal court decision?

In contract law, fraud invalidates the contract. In criminal law perjury is charged criminally. In this case Bourne and Bennett's knowingly introduce, manufacture, solicit fraudulent evidence. This is proven by Bourne and Bennett's own discovery and court record. In Nov. 22nd 2010 closing arguments you have Bennett's, Bourne openly lying about the record and the defendant. They knew Dorey had known about the CIA for 15 years, yet Bennett's & Bourne argue she had never known, then go on to call the defendant a liar for the very issue they knew he was telling the truth about. Shady at the Shadiest, sketchy at the sketchiest. Liars proven by the record. *Berger v United States* 295 US 78, 55, Sct., 624, 79, L. Ed 1314 "Official misbehavior requires reversal simply because society can not tolerate giving final effect to a judgment tainted with such intentional misconduct". Bourne and Bennett's by far exceed Berger!

8. Does Judge McLaughlin and the State have Subject matter jurisdiction to hold the appellant?

There is no valid indictment produced by the state?

9. Did the Idaho Supreme Court error in their determination of the law of the Case. Maxwell v Roe 9th circuit. "Because" statement mirrors the Idaho Court of Appeals statement. Maxwell mirrors Hawkins in many ways. The statement is necessary to the court's decision, as without it, Judge McLaughlin believes he can completely throw away the entire decision, denying Hawkins a new trial or release.

10. Did the Idaho Supreme Court violate the law, rule of mandate by accepting the permissive appeal?

United States Court of Appeals 9th circuit Lopez v Astrue No. 06-16370 April 18 2008

Holding District Court lacked Subject matter jurisdiction to review evidence and make conclusions outside of the mandate. Rule of mandate did not give authority to consider evidence outside of the court's mandate. The rule, law of mandate was violated when the court was asked to consider a response and act upon that response.

Since the Idaho Supreme Court refused to consider the issue of retroactive competency in Idaho, which was the actual question on appeal, it made its decision moot and simply dictum in the interlocutory appeal because it was without power to decide the issue according to their own wording that retroactive competency was not the issue before the court and is not the type of issue allowed in an interlocutory. Yet the issue was clearly retroactive competency. The sentence "Because it is" was questioned as being not the law of the case because retroactive competency is possible in other courts the state argued. The state further said Eric Frederickson was not understanding the states argument, which made him ineffective by the prosecution's own words, and the Idaho Supreme Court decision, which stated we are not unsure if retroactive competency is appropriate in Hawkins. Then said, retroactive competency is not the issue that is presently before the court, then said Rule 38 does not bar retroactive competency, then said that the state could raise the retroactive competency issue after the remittitur was issued even though it was not raised in direct appeal, thus allowing for the re-litigation of a host of cases where the defense can re-litigate issues not raised prior. The entire decision is about an issue that the court states it can not accept in an interlocutory and can not decide. The court states there was no discussion by the Court of Appeals as to how they arrived at their decision. That is simply not true. The court of appeals goes into a lengthy 4 pages of case cites, discussion on Hawkins behavior before ~~and~~ and during trial. The court also says the statement "Because" is dictum and not necessary. This again is not true. Maxwell v Roe uses the mirror image of the Court of Appeals statement in Hawkins, and that mirrored statement is necessary and not dictum before the 9th circuit. After review of the decision by four legal professionals

lawyers in good standing before the court and Idaho bar say the Idaho Supreme Court "Got it wrong". one, the case was not proper for an interlocutory two, the court spends as much time saying they did not accept the appeal as to retroactive, it is not appropriate as they do stating that retroactive is not prohibited. The entire appeal was about retroactive competency, if Judge McLaughlin and Bourne, Bennett had not fraudulently gained, a retroactive ruling, again in violation of mandate, that would have made the "Because" statement necessary, therefore it is clear the Idaho Supreme Court's decision, if one can consider it a decision, was not. The court ~~did not~~ never overturned or reversed the Idaho Court of Appeals so under clearly established federal, constitutional law, law of mandate, the entire 3 year appeal and decision was moot. The court had no authority, subject matter jurisdiction to decide retroactive competency issue in the interlocutory. The court admits that in its decision. The court had previously denied the states appeal as to retroactive competency. The court says anything not necessary to the decision, order, directive, is dictum. Therefore, using the courts own wording in Hawkins, the Idaho Supreme Court's decision in 38532 is just dictum. It clearly states retroactive competency is not the issue presently before the court, yet then states the sentence in question, which is about retroactive competency and has the words retroactive competency is not the law of the case. Then states they remanded with instructions consistent with the decision. Then the defense's position is anytime the decision has retroactive competency in the sentence you can cross out that sentence. That is exactly what Judge McLaughlin has done to every sentence in the Court of Appeals decision, crossed out every sentence, every line, every word, completely shredding the Court of Appeals order directive, because the Idaho Supreme Court decision, McLaughlin states, gives him the power to completely disregard a higher court ruling when in review he finds even one sentence that he believes is "dictum". In review of Idaho Supreme Court decisions using the reasoning in Hawkins 38532, legal professionals have found over 602 cases that require re litigation, overturning, because they fail to meet the standard set in Hawkins by the Idaho Supreme Court. One lawyer said, I am going to use their decision against them in an upcoming issue, if they allow the state to re litigate on issues outside of direct appeal that were never raised, that opens up a possible class action based on other prior decisions of the court.

11. Since the Idaho Court of Appeals had no decision from the Idaho Supreme Court regarding retroactive competency, that would mean they had no instate cite, case to use in their order, therefore does the Idaho Court of Appeals have the power to make case law, set precedent; like, state, retroactive competency in Idaho is not allowed?

Of course they do. They did. It is the controlling precedent regarding Hawkins, which makes their statement "Because it is not possible" the law of the case, and order, directive, mandate all binding the lower court. Judge McLaughlin is without subject matter jurisdiction, and authority to do anything but what the Idaho Court of Appeals ordered. The Idaho Supreme Court, nor any other Superior court ever said they reversed or overturned or modified their decision.

"Because of the serious ramifications and consequences which could follow from a court acting without jurisdiction over subject matter... judgments entered by a court without jurisdiction over the subject matter are void and are subject to collateral attack and are not entitled to recognition in other states... In addition, judges who act without jurisdiction over the subject matter may be liable for damages in civil actions" • *Stump v Sparkman* 435 U.S. 349, 98, 54, 1099, 55, L.Ed 2d 338 (1978)
"A court's lack of subject matter jurisdiction can not be waived by a party" "the issue may even be raised ~~late~~ sua sponte by a trial or appellate court" *State v McParthy* 133 Idaho 119, 122, 982, P.2d 954, 957, Ct. App. 1999 *State v Kowajecz* 139 Idaho 482, 483, 80, P.3d 1083, 1084, (2003)

Marshall v Lee

12. Is Judge McLaughlin bound by the Idaho Court of Appeals order to retry or release if found competent, and barred from reexamining and resentencing without a trial due to the fact that his failure to sua sponte a competency hearing at the time of trial was a due process violation that can not be cured by a retrocomp evaluation now?

The United States Supreme Court has held that a retroactive competency determination passed one year after trial does not comport with due process.

Burton v Cate

13. Appellant Appeals all motions, including motion to Dismiss Indictment for Prosecutorial misconduct and Judicial Misconduct so egregious, criminal code violations have been committed numerous times over the past seven years, some of which are: unlawful removal, kidnapping of appellants children, falsifying reports, Soliciting, Altering, falsifying official government record, Manufacturing, Soliciting, perjured testimony intentionally admitted into Court record knowingly done to gain fraudulent rules from the courts

14. Does McLaughlin have a lawful right to deny appellant his choice of medical doctor to evaluate Hawkins, to limit the quality of doctor, to limit the area that the doctor can come from?

McLaughlin denied expert witness because he lived outside of the Boise valley.

This interlocutory appeal is necessary because this court just stated their opinion regarding the state's interlocutory in docket 38532 which was solely based on Judicial misconduct, Prosecutorial misconduct and fraud. This court was presented with evidence based in the intentional, deliberate altering, falsification and suppression of official government and public record. Roger Bourne and Jan Bennetts intentionally, knowingly, altered, falsified, suppressed their own state's discovery in CR-FE-2007-5 to alter, falsify that record, then present that record to Dr Michael Estess and Dr Chad Sample to select their perjured testimony into the Nov. 12 2010 record to obtain a fraudulent ruling to be able to appeal to the Idaho Supreme Court that otherwise would not be granted. Dr Chad Sample had issued a report firmly stating the defendant was incompetent. Roger Bourne and Jan Bennetts then set about making, altering, falsifying the state's discovery to change Dr Sample's mind. They did this after speaking to Dr Estess and Dr Sample by altering, falsifying, suppressing "all" reports that made any mention of the defendant and CIA, DIA, prior to trial. Example. Bourne and Bennetts altered, falsified, suppressed the defendant's wife's reports, FBI SA Scott More 12-15-06 where Darcy, the defendant's wife said she had known about the defendant and the CIA, DIA, government for some fifteen years, (15 years) On Audio cds, August 11th 2006 to August 18th 2006 No. S20060700 thru S20060703 Darcy speaking to Det Rosenbaum Oregon State Police and Detective Dave Smith Boise Police Dept talks at length about knowing about Hawkins and CIA for over 15 years. Names names, talks about ~~plans~~ plans, vans, being followed, people calling and speaking with accents, etc... All Altered, falsified suppressed. Bourne, Bennetts then gave this altered, falsified evidence to Dr Sample and Dr Estess for review. On Nov. 12th 2010 Roger Bourne, Jan Bennetts then place Dr Sample and Dr Estess on the stand and ask them, did you see anything about CIA, DIA, Nigel in the evidence. No, both Estess and Sample say. Wouldn't you expect to have seen that in the evidence if Hawkins was truly delusional asked Bennetts, Bourne, Yes said Sample, Estess. Sample stated that the main reason he changed his mind to Hawkins being retroactive competent was because Darcy never knew anything about the CIA in all the reports he read, and if Hawkins was really delusional that persons closest to Hawkins would have heard about the stories of CIA over the 15 years. Note: Bourne and Bennetts are the only ones that provided Sample and Estess with the reports, information. The defense attorney Eric Sutton never presented even one document or admitted one document into the record. Sample and Estess based their entire evaluation on a fraudulent, altered and falsified record. Bourne and Bennetts go on to make written closing arguments on Nov. 22nd 2010 where they state, Darcy never knew, and that the defendant could not fool professionals like Sample and Estess that people closest to Hawkins, like Darcy never knew. Bourne and Bennetts violate Idaho Criminal Code 18-3201, 18-3203, fraud statutes, and perpetrate a great lie upon the Court and cheapen the process of law to the defendant. Defense Attorney Eric Fredericksen received discovery from Bourne and Bennetts after the Idaho Supreme Court remanded the case back to district. In that discovery, was Darcy's FBI, Oregon State Police, Wasco County Sheriff's, Boise City Police, Ada County Sheriff's reports that prove

Roger Bourne and Jan Bennett's had altered, falsified, suppressed official government, public record for the Nov. 12th 2010 hearing, and for the appeal before the Idaho Supreme Court. There in the discovery, directly from Jan Bennett and Roger Bourne's hands was the proof they had lied, deceived, altered, falsified their own official discovery, to fraudulently obtain the retrocompetency ruling. Further, Judge McLaughlin is on record he had reviewed the "entire" case file at least twice, yet knowingly admitted fraudulent evidence, and made a fraudulent ruling. Fraud invalidates contracts and court decisions. Judge McLaughlin being placed on notice, Judicial notice of this fraud along with Bourne and Bennett's refuse to grant a hearing to dismiss the case. Refuse to correct the official record even though they have the proof they committed fraud in their hands. Judge McLaughlin is on Judicial notice he is without authority in the case because he has no subject matter jurisdiction as the state has no valid indictment. Grand Jury was not properly seated in its term with a indictment signed by a Judge. (State v. Dalling). The Judge and the Prosecutor have knowingly conspired to deny Hawkins his due process right to a fair proceeding. Hawkins was denied all of his witnesses at trial by name other than Roger Bourne, Jan Bennett's, Judge McLaughlin letter dated Jan 24th 2008 has Roger Bourne admitting it was the "county" "state" error that the defendant's subpoenas were "mistakenly" not served. All mistakenly not served. This is the same unlawful acts before this court today, altering, falsifying, suppressing official documents. The state, county have continually denied Hawkins fair proceedings. Denied his constitutional rights to compel witness at trial, now making official records disappear, alter, falsify official record sent before the Idaho Supreme Court. Bourne, Bennett's, McLaughlin all lied to this court, they will lie to anyone.

To this purpose, there is no greater purpose for a interlocutory appeal than to correct the incorrect, unlawful actions of a lower court, to give decisive direction to state prosecutors and Judges that violate clearly established law and deny the proper administration of justice. To make it clear the Idaho Supreme Court will not tolerate it being used by an inferior court as Judge McLaughlin is, for personal vendettas against defendants. First impression of Idaho, or last impression will be set as the decision of this court. Judge McLaughlin, Roger Bourne, Jan Bennett's all violated the "Rule of Mandate". They deliberately altered, falsified official record to be able to appeal interlocutory where they had no lawful right to do so. They have manipulated the judicial system to gain a unfairly prejudicial ruling, that was fraudulently obtained and is unlawful. They appealed a question about the Law of the case doctrine, the statement by the Idaho court of Appeals. Yet they had already violated the Rule of Mandate by holding a retroactive comp hearing and making a retroactive competency determination in violation of the Rule of mandate. Then McLaughlin, Bourne, Bennett's certify a question to the Idaho Supreme Court, again in violation of the Rule of mandate, which is Superior to the law of the case doctrine, which is an invasion of the judiciary. The Rule of Mandate is deeply rooted in constitutional law and federal law.

Federal rules of Appellate Procedure 36 speaks to this as well as clearly established Federal law of rescripts and remands. *United States v Thrasher* 483 F.3d 977, 981, 982 (9th Cir 2007)

"A district court that has received the mandate of the Appellate Court, can not vary or examine it for any purpose other than executing it." "Moreover when a district court is confronted with issues that the court of appeals never considered, the mandate requires respect for what the court of appeals decided, not for what it did not decide." *United States v Kellington* 217 F.3d 1084 1093 9th 2000

The rule of mandate expressly forbids Judge McLaughlin from resentencing and reconvicting without a trial and conviction by a jury. He is required to either retry or release if found competent. Judge McLaughlin's belief he can completely throw out the Court of Appeals entire decision because of one line in the opinion as to what is, or is not the law of the case, which is a violation of the judiciary to keep a consistent policy throughout the execution of the higher courts order and directive only. The law of the case doctrine was never meant to overshadow the higher courts order or be superior to the order, directive. The defense does not believe the Idaho Supreme Court issued an opinion in 38532 that allows McLaughlin or any district court to pull out a crystal ball and interpret what they will into higher court rulings, finding "dictum" and throwing the entire case out, making their own ruling. This would completely do away with the Idaho Supreme Court, as all district courts could review all past, present, future higher court rulings and overturn their decisions without any need for appeal.

Argument

The defense's position on the Idaho Supreme Court decision is this. The Idaho Supreme Court was clearly given fraudulent record that is proven by the face of the record and state discovery. When you remove the intentional prosecutorial misconduct, judicial misconduct and fraud, you no longer have a ruling as to retroactive competency. Therefore you have no valid interlocutory appeal from the state. You also look at the fact the Idaho Supreme Court was not properly briefed as to the following:

Maxwell v Roe No. 08-55534 May 20, 2010 when the 9th circuit Court of Appeals gave their last of the case:

"Because we can not conclude that a retrospective competency hearing would be possible here, we remand with directions to grant Maxwell a writ of Habeas Corpus. The state remains free to retry Maxwell." They further state, "the state to provide Maxwell with a new trial in a reasonable amount of time or release him".

Now look at the Idaho Court of Appeals statement and see the 9th circuit would find it is the law of the case "Because it is not possible to retroactively make a determination as to Hawkins Competency at the time he was tried, we must vacate the judgment of conviction and leave the state free to retry Hawkins".

These two "Because" statements could have been written by the same author. It clearly is the law!

Now look at Maxwell v Roe. and Hawkins. They are very similar. Six years after trial moving for retroactive competency. Sparse medical history. No experts present in the courtroom. The fact that the United States Supreme Court has never ruled that any retroactive competency over a year after trial comports with due process.

In Burton v Cate

The court said that failure to conduct a competency evaluation at time of trial was a due process violation that "could not be cured by a retrospective competency hearing later".

Dr. Michael Estes never tested, interviewed or even spoke to Hawkins, prior to or after Hawkins competency report by Estes. Clearly this would not even be considered by any reasonable Judge as clear and convincing. Dr. Chad Sample was 100% sure that Hawkins was incompetent and issued a report stating so. Then Barry Brumett issued fraudulent, falsified, altered record to Sample, and he changed his mind. There is currently no clear and convincing finding here either by any competent reasonable Judge. Judge McLaughlin is clearly unreasonable, in his beliefs, unfit for the bench, or deliberately conspiring with the prosecution to intentionally deny Hawkins any resemblance of a fair impartial proceeding. McLaughlin was ruled to have abused his discretion by the Idaho Court of Appeals, now McLaughlin has stayed all defense motions in district court until after he can recommit and resentence. The defendant believes McLaughlin needs a 211 evaluation prior to attending any further proceedings. The defense motioned a Rule 25, properly filed, setting forth grounds, violation of Judicial canon, the fact McLaughlin made himself a witness in the proceedings by stating "he had made observations as to the defendant during and after trial. This makes him a witness since he went on to say he had "formed an opinion" about the defendant as to his competency.

The Idaho Supreme Court's opinion states they did not accept the state's appeal regarding retroactive competency. So consistent with its opinion, we must consider anything in the Supreme Court's opinion having to do with retroactive competency "dictum" and none controlling as that is their statement. The statement regarding that retroactive competency determination may not be appropriate as Hawkins would also be dictum. In fact, everything within the opinion must be considered dictum because:

A. "everything not necessary to the Court's order, directive is considered dictum"

B. The Idaho Supreme Court "never" reversed or overturned the Idaho Court of Appeals order, directive!

C. The statement "Because" directly pertained to retroactive competency that the Court said they would not address!

The Idaho Supreme Court stated that the Idaho Court of Appeals did not give a reason as to how they arrived at their directive, order, decision and did not cite case. This is overcourse not true.

In the very opening statement of Judge Walters just before I background he states!

"For the reasons set forth below, we vacate the Judgment of conviction and remand the case for further proceedings". The Idaho Court of Appeals cites numerous cases on pages 5, 6, 7, 8 that fully support their findings. Further they go into length as to why they arrived at their decision using court transcripts, record, prior reports from police. The state "Hawkins testimony during trial presented compelling indicia that he was not in touch with reality".

"Therefore district court's failure to sua sponte order a mental health evaluation and make a determination as to Hawkins competency was an abuse of discretion".

"Because it is not possible to retroactively make a determination as to Hawkins competency at the time he was tried, we must vacate the Judgment of conviction and leave the state free to retry Hawkins if he is found competent to stand trial".

Match the above statement in Hawkins to Maxwell v Roe

It is clear that Hawkins and Maxwell are very similar. Both Courts were well briefed on applicable law and found it not possible to make a retroactive determination do to:

- A. ~~Passage of time since trial~~ Passage of time since trial
- B. Lack of expert witness viewing the defendants during trial
- C. Competency determination would have to be based upon typed reports and court record
- D. It is a due process violation of the 14th amendment that can not be cured by a retroactive hearing years later. It was a due process abuse of discretion. (Burton v Late.)

In May 20th 2010, the 9th circuit said in Maxwell v Roe

"Because we can not conclude that a retrospective competency hearing would be possible here"

Made it clear the 9th circuit did not give the option for a retrospective competency determination. The Idaho Court of Appeals made it clear as well, there was no retroactive option either, retry, release.

Then there is the issue, when the Idaho Court of Appeals issues its order, directive, determination clearly that the "Judgment of conviction" is vacated. Under the Rule of mandate the lower court can not "reconvict" without a jury's verdict as Hawkins was a trial by jury. Therefore Judge McLaughlin is without authority to reinstate the jury's verdict, Judgment of conviction. He must retry or release. McLaughlin has repeatedly abused his discretion, violated the Rule of mandate, disregarded higher court orders and habitually violated Hawkins fundamental substantive, constitutional rights.

McLaughlin stated on the record to the defendant, "what do you need discovery for, you do

do not need discovery". McLaughlin has made it clear he is bitter over being denied an "interview" with the Idaho Court of Appeals for a potential position with that court. Between his desire to convict Hawkins at all costs and to get back at the Idaho Court of Appeals, McLaughlin has committed judicial misconduct, completely failing to be impartial and obeying higher court mandates. The defense has filed a complaint citing many violations regarding Judge McLaughlin with the Judiciary Board and believes McLaughlin is unfit to serve as a Judge.

This coupled with extreme prosecutorial misconduct by the chief deputy prosecutor Roger Baumer and the chief of office Jan Bennett makes it impossible to rely upon any ruling or interpretation of Judge McLaughlin to gain a fundamentally fair proceeding. To date, for 7 years, it has not happened once.

Based upon the foregoing the defense asks for the Idaho Supreme Court to accept this appeal based on controlling questions of law, which include the decision in 38532 that is now clear was based on fraud, that no other court can correct except this court in the state unless it is moved to a federal court. Laws that pose a question controlling to a case that has taken 3 years and 4 months to date.

McLaughlin attempt to deny justice by staying motions from the defense to disqualify him, for discovery, to press up a valid indictment, motion to dismiss, prosecutorial misconduct, etc... all he states are not germane to what he wants. This again is abuse of discretion and violation of clearly established federal, constitutional law. Due process does not exist in McLaughlin court.

McLaughlin denied defense Motion to Dismiss Case, and all others by court record.

Dated this 10th day of September 2013
date.

sign
Foran R Hawkins
Ada County Jail
Pro Se

Certificate of Service

I Foran R Hawkins do hereby state that a true and correct copy of the foregoing was placed in the United States mail at the Ada County Jail law library on this 12th day of Sept. 2013 to the following parties.

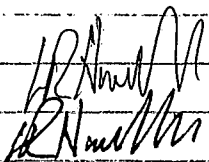
Ada County Prosecutor
Roger Bourne
Jan Bennetts
200 W Front St
Boise Id 83702

Clerk of the Court
200 W Front St
Boise Id 83702

Court Reporter
200 W Front St
Boise Id 83702

Attorney General
Lawrence Wasden
Capitol Bldg. Box 83701
Boise Id 83701

Idaho Supreme Court
Clerk of the Court
POB 83720
Boise Id 83720


Foran R Hawkins.

Faron R Hawkins
Ada County Jail
7210 Barnster
Boise Id 83704

RECEIVED
SEP 16 2013
Ada County Clerk

NO. _____
A.M. _____ FILED P.M. 4:00

SEP 16 2013

CHRISTOPHER D. RICH, Clerk
By BRADLEY J. THIES
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff - Respondent

v

Faron R. Hawkins
Defendant - Appellant

Case No. CR-FE-2007-5
Docket 41347-2013

Notice of Appeal

Amended

To: The Above Named respondents: Roger Bourne, Jan Bennett's Ada County Prosecutors, Lawrence
Walden Idaho Attorney General 200 W Front Street, Boise Idaho 83702 And the Clerk of the
Court for Ada County at 200 W Front St Boise Idaho 83702

Notice is hereby given that:

1. The above named appellant, Faron R Hawkins, appeals against the above named respondents, State of Idaho, to the Idaho Supreme Court from Judge McLaughlin's August 13th 2013 order, decision, memorandum.
2. The party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described are appealable under IAR. 12, IAR.
3. Appellant asserts Judicial misconduct, Prosecutorial misconduct, violations of the Rule of mandate, violations of the clearly established federal and constitutional law, and a substantial difference in opinion of law that involves a question of law that is a first impression of Idaho. The fact that Judge McLaughlin does not have Subject matter jurisdiction because there is no valid indictment. Appellant is not prohibited from raising other issues.
4. No order is known of sealing any portion of the record except Nov. 15th 2007 Suppression hearing.
5. Reporter's transcript is requested. Appellant requests the entire reporter's standard transcript of All proceedings, hearings, trial, jury instructions, before and after jury retired to deliberate. Closing arguments. Verbal instructions by the court. Video Courtroom recordings of all proceedings, Nov. 12th 2010 transcripts, video.
6. Appellant requests the following documents be included in the clerk's record: Rule 28 IAR, Ada County Prosecutors Case file CR-FE-2007-5, M0600093, and all Motions, evidence, exhibits, including Judges Case File.

000259

7. I certify a copy of this Notice has been served on the reporter. The Appellant is exempt from paying the estimated transcript fee because he has been ruled indigent by the 4th District Court Judge McLaughlin.

Service has been made upon all parties pursuant to Rule 20 and Idaho Attorney General pursuant to Section 67-1401(1) Idaho Code.

Dated this 10 day of Sept. 2013

Faron R. Hawkins
Faron R. Hawkins
Ada County Jail
Pro Se Indigent
7210 Bonister
 Boise ID 83704

Pursuant to Rule 17

State of Idaho
County of Ada

Faron R. Hawkins being duly sworn deposes and says, that I am the appellant in the above entitled case and all statements in the above Notice of Appeal are true and correct to the best of my knowledge.

x *Faron R. Hawkins*
Faron R. Hawkins.

Subscribed and sworn before me this day of Sept 2013

Name

Residence.

OCT 07 2013

CHRISTOPHER D. RICH, Clerk
By AMY LYCAN
10/7/13

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff/Respondent,

vs.

FARON HAWKINS,


Defendant/Appellant.

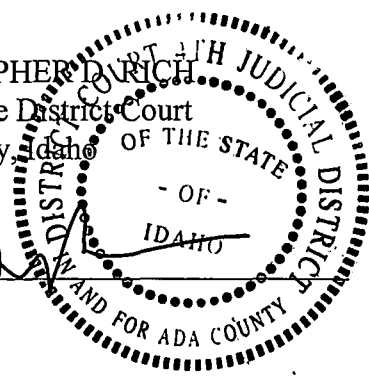
Case No. CR-FE-2007-00005

NOTICE OF HEARING

This matter is set for October 17th 2013 at 9am. The purpose of the hearing in light of the dismissal of the defendants interlocutory appeal is to select a psychologist/psychiatrist to evaluate the defendant and report to the Court based upon the Courts earlier order in this case. In the event the defendant does not submit in writing prior to the hearing his selection of a psychologist/psychiatrist the court then will make the selection.

CHRISTOPHER D. RICH
Clerk of the District Court
Ada County, Idaho

By: 
Deputy



AL

CERTIFICATE OF MAILING

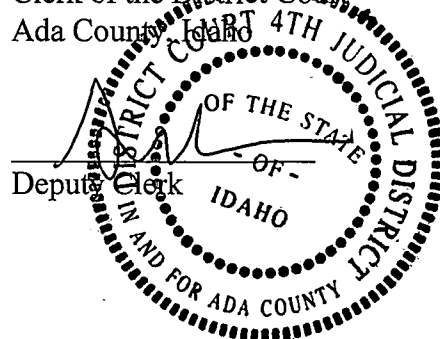
I hereby certify that on this 7th day of October, 2013, I mailed (served) a true and correct copy of the within instrument to:

Faron Hawkins
Ada County Jail
7210 Barrister
Boise, ID 83704
Via: Mailed and sent to jail via email

Ada County Prosecutor
Roger Bourne and Jan Bennetts
Via: Interdepartmental Mail and Email

Ada County Public Defender
August Cahill
Via: Interdepartmental Mail and Email

CHRISTOPHER D. RICH
Clerk of the District Court
Ada County, Idaho



OCT 17 2013

CHRISTOPHER D. RICH, Clerk
By CHERRY ABBOTT
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	Case No. CRFE-2007-00005
Plaintiff,	
vs.	ORDER
FARON RAYMOND HAWKINS,	
Defendant.	

The Court having reviewed the motion for waiver of fees for transcripts on appeal, and the Court having issued an order on June 17, 2013 declaring the defendant indigent, the Court will order a waiver of fees for the transcript of the July 31, 2013 hearing on the appointment of an expert witness.

IT IS SO ORDERED.

DATED this 17 day of October 2013.


MICHAEL McLAUGHLIN
DISTRICT JUDGE

CERTIFICATE OF MAILING

I hereby certify that on the 17th day of October 2013 I mailed (served) a true and correct copy of the within instrument to:

ROGER BOURNE
JAN BENNETTS
ADA COUNTY PROSECUTING ATTORNEY
INTERDEPARTMENTAL MAIL

AUGUST CAHILL
ADA COUNTY PUBLIC DEFENDER
INTERDEPARTMENTAL MAIL

FARON RAYMOND HAWKINS
C/O ADA COUNTY JAIL
7210 BARRISTER
BOISE, ID 83704

CHRISTOPHER D. RICH
Clerk of the District Court

By: 
Deputy Clerk

Time	Speaker	Note
<u>9:03:34 AM</u>		CR-FE-2007-00005 Faron Hawkins Status Hearing
<u>9:03:39 AM</u>		Faron Hawkins present in-custody; August Cahill present as standby counsel; Jan Bennetts and Roger Bourne present for the state
<u>9:03:59 AM</u>	Judge	Dismissal of appeal from the supreme court regarding an order back in August regarding the selection of an expert witness in the case to focus upon the single issue before the court which is Mr. Hawklines competency or lack there of at trial in 2007
<u>9:04:42 AM</u>	Judge	The court then in a notice of hearing sent out 10/7 that if there was not an expert selected the court would pick one to conduct the evaluation
<u>9:05:15 AM</u>		All parties ready to proceed
<u>9:05:19 AM</u>	Judge	Who do you request Mr. Hawkins?
<u>9:05:32 AM</u>	Mr. Hawkins	Dr. Robert Collinger
<u>9:05:46 AM</u>	Judge	From St. Louis? That would not be granted, I said within 150 miles of the Boise area
<u>9:06:04 AM</u>	Mr. Hawkins	He is willing.....
<u>9:06:11 AM</u>	Judge	No, I will not select him, it is within the parameters of the courts discretion. If you will not give me a name I will select one.
<u>9:06:45 AM</u>	Mr. Hawkins	I did give a name, Dr. Collinger
<u>9:06:49 AM</u>	Judge	I will appoint Dr. Angle, the court will prepare the order
<u>9:07:07 AM</u>	Mr. Hawkins	There is no point in going forward then
<u>9:07:18 AM</u>	Judge	So if I appoint Dr. Angle you will decline to participate?
<u>9:07:30 AM</u>	Mr. Hawkins	Yes
<u>9:07:32 AM</u>	Judge	Why?
<u>9:07:36 AM</u>	Mr. Hawkins	The doctor from St. Louis will do it for the same price
<u>9:07:54 AM</u>	Judge	Do you understand that if you decline your sentence will be reimposed
<u>9:08:16 AM</u>	Mr. Hawkins	You have no authority to do that
<u>9:08:22 AM</u>	Judge	I do have the authority but you can appeal. Do you wish to confer with MR. Cahill? I will give you a minute.
<u>9:08:56 AM</u>	Mr. Hawkins	Inaudible
<u>9:09:03 AM</u>	Judge	We will take a recess until 930
<u>9:09:33 AM</u>		
<u>9:09:33 AM</u>		
<u>9:09:33 AM</u>		

<u>9:35:34 AM</u>		Back on record
<u>9:35:41 AM</u>	Judge	Had a break, Mr. Hawkins did you confer with MR Cahill?
<u>9:35:54 AM</u>	Mr. Hawkins	Yes
<u>9:35:55 AM</u>	Judge	If the court were to appoint Dr. Angle to conduct an investigation of you and whether you were competent to proceed will you submit
<u>9:36:24 AM</u>	Mr. Hawkins	I would like to ask for a 7 day continuance to possibly get Mr. Cahill involved
<u>9:36:40 AM</u>	Judge	Mr. Cahill what is the purpose of the continuance
<u>9:36:51 AM</u>	Mr. Cahill	I understand we are standby counsel. He is considering asking us to be counsel of record. I will do whatever the court orders and try to accommodate
<u>9:37:27 AM</u>	Ms. Bennetts	I would like to take it up now, there is no need for a 7 day continuance.
<u>9:37:44 AM</u>	Mr. Cahill	I have other obligations
<u>9:37:51 AM</u>	Judge	We can come back at 10:10 and you can either have Mr. Cahill as your counsel or not. I would like to get someone here locally. When we come back at 10:10 I will expect that Mr. Cahill if he is your counsel can go out and find someone to testify on your behalf. That will not be revocable. Option 2 is that the court would report Dr. Angle. He would evaluate you and submit a report. Option 3 is that if you refuse to have either you will be sentenced today.
<u>9:39:38 AM</u>	Mr. Hawkins	He needs to review files
<u>9:39:43 AM</u>	Judge	I have made my ruling
<u>9:39:55 AM</u>		
<u>9:39:55 AM</u>		
<u>10:12:29 AM</u>		All parties present
<u>10:12:33 AM</u>	Judge	Mr. Cahill is now at the defense table
<u>10:12:51 AM</u>	Mr. Cahill	He is going to ask the court to appoint me as counsel
<u>10:13:03 AM</u>	Judge	Is that correct
<u>10:13:09 AM</u>	Mr. Hawkins	Would the court allow my parents to pay for Mr. Collinger
<u>10:13:24 AM</u>	Judge	If you can privately pay for him to fly in and conduct the investigation that is different. We would need financial documents from your parents. At this time you have asked for public assistance to pay for the psychiatrist. There are qualified people within the range of Boise. Is Mr. Cahill your counsel
<u>10:14:33 AM</u>	Mr. Hawkins	Yes
<u>10:14:36 AM</u>	Judge	You understand that from this point on he will be your counsel. I will not deal with motions to disqualify him or other motions.
<u>10:15:28 AM</u>		I don't understand

<u>10:15:33 AM</u>		You will not be able to fire him
<u>10:15:42 AM</u>		There are no conditions on this. You can have Mr. Cahill or take another option.
<u>10:15:57 AM</u>	Mr. Hawkins	If he wants another doctor then you should just sentence me today
<u>10:16:16 AM</u>	Judge	Mr. Cahill you have had discussions with him this morning about this issue.
<u>10:16:36 AM</u>	Mr. Cahill	Today is the first time I have meant with him and I am not prepared to make any statements about his mental state
<u>10:16:56 AM</u>	Judge	I am not asking you to disclose what was discussed
<u>10:17:07 AM</u>	Mr. Cahill	I had no problems talking to him
<u>10:17:20 AM</u>	Judge	Are you taking any medications Mr. Hawkins?
<u>10:17:28 AM</u>	Mr. Hawkins	I just got out of medical Tuesday, but I am not taking any medications. It was suicide related
<u>10:17:53 AM</u>	Judge	You attempted suicide?
<u>10:18:01 AM</u>	Mr. Hawkins	No, they thought I was going to
<u>10:18:08 AM</u>	Judge	You are not on any medications?
<u>10:18:16 AM</u>	Mr. Hawkins	Not now
<u>10:18:19 AM</u>	Judge	When was the last time you were on medications?
<u>10:18:35 AM</u>		I don't know, I am not allowed to question anyone, if you have any authority at all sentence me
<u>10:18:57 AM</u>	Judge	You will not submit to Mr. Engel for an evaluation
<u>10:19:09 AM</u>	Mr. Hawkins	Will not respond
<u>10:19:18 AM</u>	Judge	The court will find that in light of the motions filed since April that Mr. Hawkins is competent and understand the nature of the proceedings, he has made a decision and I find it to be knowing, it wants a psychiatrist from St. Louis, there have been numerous delays, failure to follow through with the courts order. There has been ample opportunity for MR. Hawkins to present to the court his mental state at trial in 2007.
<u>10:20:37 AM</u>	Judge	Mr. Estess said that he was competent to stand trial and he was found competent by both doctors. He was capable of understanding the proceedings. It is the judgment that the sentence originally imposed with credit for time served since the imposition of sentence. Anything else from the state?
<u>10:22:25 AM</u>	Ms. Bennetts	Nothing further
<u>10:22:31 AM</u>	Judge	Anything Mr. Hawkins?
<u>10:22:37 AM</u>	Mr. Hawkins	You denied me a hearing, prosecutors lied, you are prejudice, I don't know what else there is to say
<u>10:22:57 AM</u>	Judge	You are remanded for the imposition of your sentence and a judgment will be prepared.
<u>10:23:21 AM</u>		END OF CASE

OCT 17 2013

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

CHRISTOPHER D. RICH, Clerk
BY AMY EDWARDS
DEPUTY

STATE OF IDAHO,
Plaintiff,

vs.

Faron Hawkins
Defendant.

Case No. CR#E 07-00005

CUSTODY ORDER

XXX-XX-8627

TO THE SHERIFF OF ADA COUNTY, STATE OF IDAHO:

☒ You are hereby ordered to **TAKE INTO CUSTODY** the said defendant and keep him/her in your custody for the following reason:

☐ Defendant has been sentenced to County incarceration. () days in Ada County Jail.)
A formal commitment will follow.

☒ Defendant has been sentenced to I.D.O.C: (life) yrs = 30 yrs FIXED + indef. yrs.
INDET.)
Retained Jurisdiction _____

Defendant given credit for any time served. A formal commitment will follow.

☐ Defendant's probation has been revoked.

☐ Defendant's bond/ROR has been _____ revoked.

☐ Bond set at \$ _____.

☐ Bond is increased to \$ _____.

☐ Bond reduced to \$ _____.

☐ **YOU ARE HEREBY ORDERED TO KEEP THE DEFENDANT IN THE ADA COUNTY JAIL UNTIL THE DEFENDANT IS SIGNED UP ON PROBATION BY A PROBATION OFFICER, AT WHICH TIME THE DEFENDANT IS TO BE RELEASED FROM CUSTODY. FORMAL COMMITMENT TO FOLLOW.**

☐ You are hereby ordered to **RELEASE** the said defendant from your custody for the following reason:

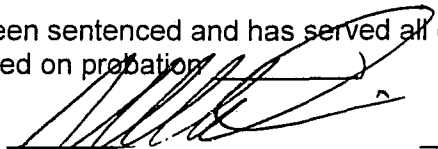
☐ Release defendant on _____ after completion of _____.

☐ The defendant is released on his/her own recognizance.

☐ The above entitled case is dismissed against the defendant.

☐ The defendant has been sentenced and has served all of his/her custody time. (released on probation)

Date: 10/17/13


Michael McLaughlin
District Judge

Custody Order

000269

OCT 21 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

Faron R Hawkins
Ada County Jail
7210 Barometer
Boise Idaho 83704

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v
Faron R Hawkins
Defendant

Case No. CR-FE-2007-5

Motion to Dismiss
under
I.C. 19-3501
I.C.R 48 (2)

Comes now Defendant, Faron R. Hawkins, Pro Se, and moves this court as follows:

1. 19-3501 requires the dismissal of the indictment and prosecution for several reasons.
2. 19-3501 (2) (3) requires the court to dismiss the case "if the defendant is not brought to trial within six months from the date the defendant was arraigned" or six months from when the information was filed.

Hawkins was charged by information in Jan 2006 on August 28th 2006 Hawkins was arraigned. As of February 25th 2007 Hawkins still had not been brought to trial nor had a trial date been set.

3. Jan Bennett's on the record stated she believed Hawkins may have waived his quick and speedy on April 13th 2007 but did not before. April 13th is approx 8 months after Hawkins Arraignment.

Hawkins is now three and a half years after his vacated sentence, and was denied a quick and speedy by rules. Hawkins has been denied his constitutional quick and speedy by Idaho law, and federal law, for over seven years.

Set for oral argument within 14 days, from this date.

Dated this 21st day of October 2013

Faron R Hawkins
Faron R Hawkins

000270

Faron R Hawkins
Ada County Jail
7210 Barrister
Boise Id 83704

OCT 21 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff
vs
Faron R Hawkins
Defendant

Case No. CR-FE-2007-5
Notice of Defenses Psychiatrist
Motion for Payment to Psychiatrist

Comes now, Faron R Hawkins, Pro Se, Defendant as follows:

~~Defense~~ Defense has chosen a psychiatrist to evaluate the evidence presented to the States Dr. Sample and Dr. Estes, both choices ordered by Judge McLaughlin and paid for by public expense to date approx \$12,162.00 Dollars to date, not including there costs for the upcoming competency, retroactive hearings which will increase public costs by atleast \$5,000 dollars. These choices, costs, were not for the benefit of the defense, only the State.

Defense will use the same standard of weight Judge McLaughlin accepted in the Nov. 12th 2010 hearing, as McLaughlin found clear and convincing testimony, evidence in Dr. Michael Estes testimony, who never tested, evaluated in interview, spoke to Hawkins, nor was Estes present at the trial to observe Hawkins. The state, Roger Bourne, Tom Bennett's admitted known falsified, altered, concealed testimony, argued a mutually false position of which is proven by the states own discovery, proving fraud, and obtained a ruling based upon that evidence, knowingly fraudulent. Judge McLaughlin stated on the record he reviewed the entire case file atleast twice, yet he pretends to not know what Bourne and Bennett's admitted was not fraud. The defense alleges the prosecution and McLaughlin is conspiring to admit fraudulent testimony, proven by the states own discovery. McLaughlin, without legal precedent, or any lawful right wants to limit defense expert testimony to a regional location, Treasure Valley, again to aid the State to gain a unfair advantage.

The defenses choice of psychiatrist is Dr. Claude Robert Cummings MD, a preminent expert in the field, regarded by the 9th circuit as the overwhelming expert in Samples diagnosed (convinced)

The defense will not limit or reduce its quality of expert to aid the state.

Dr. Claude Robert Cloninger MD has written hundreds of articles and books, is regarded as the who's who in psychology, psychiatry, genetics in the world. He specializes in Delusional disorders, personality disorders, and has already gave an opinion on the state doctors testimony, they are "completely wrong".

His word is the opinion. McLaughlin, Bourne, did not like Sample's first diagnosis, so they chose Estes, a known bias, prejudiced, and unqualified to diagnosis Delusional disorder.

Dr. Claude Robert Cloninger will review the same materials Estes and Sample did, plus, the discovery from the file the state Attorney falsified, concealed, and pose his opinion on just the written word, he will not be interviewing or testing Haulkui for two main reasons, ① McLaughlin found clear and convincing testimony in Estes and he never tested, interviewed, so the defense does not want to gain a unfair advantage over Estes ② Cloninger will cost far less because he will simply review the evidence presented to him in St. Louis Mo, and issue a opinion based solely on the typed word exactly like Estes did.

The defense will be fair, issuing the fraudulent, fake evidence the state gave Estes and Sample and will also issue the truth, so Cloninger can arrive at a totally independent decision.

The report will be the sole property of the defense, and after review, if the defense intends on using it, the defense will release it to the state and McLaughlin. If they decide they want or need Cloninger, then they can either submit argument for telephonic or in person. Cloninger, a man that has climbed the ladder to excellence in his field, is worth far more than \$450.00 per hour considering he is known the world over. The state paid out around \$2,700 for 1.5 hour interview and 4 page report on local psychologists barely out of school, known only locally.

The state, McLaughlin, may get a amount for a expert, but not limit the local, or expertise. A audit of current costs of Estes, Sample, prior and for a review of the "true" evidence, will cost more than the over \$12,000 spent to date on them.

The defense will be calling Dr. Estes, Dr. Sample, Dr. Garrett, Dr. Johnson, Dr. Cloninger, and others, such as local attorneys, who have worked with Estes in the past along with Sample and that know Haulkui, along with Judge McLaughlin and Roger Bourne and Tom Bennetts.

Dr Cloninger will be rebutting Dr Estes and Dr Samples Court transcripts as well, where they describe the symptoms of Delusional disorder.

Cloninger will view Dorsey's ~~2009~~ FBI interviews, Audio CDs, etc to prove the information the state concealed, falsified, altered.

Dr Garrett will testify to his interactions with Hawkins while at the jail

John Eric Sutton will be called to testify to the Nov 12th 2010 hearing and motion for extension, continue hearing since he was put behind 2 days prior to the hearing that McLaughlin denied.


Other witnesses will be called for testimony, regarding Estes past history, and 404 B will be submitted regarding witness of the state.

McLaughlin is truly afraid that he will not be able to make for the state of Cloninger testifies or admits a report, which he couldn't. The state lied.

The defense will prove the state lied, altered falsified concealed evidence, then argued a known fraudulent position.

The defense welcomes the hearing, as the defense did not want the August 29th 2013 date moved, under objection, and noted.

Dated this 11th day of Oct 2013


Karen R. Hawley

Certificate of Service

OCT 21 2013

CHRISTOPHER D. RICH, Clerk
by KATRINA CHRISTENSEN
DEPUTY

I Faron Hawkum do certify I marked the foregoing to the Clerk of Court and the parties below by placing such in the U.S. Mail at the Ada County Jail on this 11th day of October 2013

Ada County Prosecutor
Roger Bourne
200 W Front St
Boise ID 83708

Ada County Clerk
200 W Front St
Boise ID 83707

[Signature]
Faron Hawkum

[Signature]

OCT 22 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

189

Faron R Hawkins

ISCT

Unit 15-B-11-A

POB 14

Buy Id 83767

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

A.M. FILED PM 145

State of Idaho
Plaintiff
v
Faron R Hawkins
Defendant

Case No. CR-FE-2007-5

NOV-08-2013

CHRISTOPHER D. RICH, Clerk
By AMY EDWARDS
DEPUTY

Motion for New Trial AAD
Motion to Vacate Sentence AAD
Motion to Strike Oct 17th 2013 Hearing.
Refuses objection to said hearing, Judicial Misconduct.

[Handwritten signature and notes]
11/13/13

Comes now Defendant, Faron R Hawkins, Pro Se, and moves this dishonorable Court to:
Judge McLaughlin should have never presided over the hearing, record proves bias, prejudice.

Since the Judge McLaughlin:

1. Abused his discretion on the Trial of Jan 7th 11th 2008
 2. Had his decision reversed by the Idaho Supreme Court
 3. Stated on the record that he firmly believed the Idaho Supreme Court ordered him to conduct another competency hearings upon remand. McLaughlin can not understand higher court decision!
 4. Stated the defendant did not need discovery, or even call Chad Sample, "Just put Dr Estlin on the stand and ask him questions" ~~not~~ not required to even be evaluated.
 5. Refuse to hear defense motions that proved Nov 12th 2010 hearing was fraudulent.
 6. Refuse to hear Rule 25 to disqualify Judge McLaughlin
 7. Refuse to hear motion to admit proof of Prosecutorial misconduct.
 8. Held hearing to determine retroactive competency prior to Idaho Supreme Court ruling, in direct violation of the Rule of Mandate of the Idaho Court of Appeals order.
 9. The fact he is not a real Judge anymore, and has no real authority, fake court.
 10. The fact ~~the~~ Oct 17th 2013 was a hearing only to pick a doctor and the court failed due process to Notice up a hearing for Sentencing.
- McLaughlin violated clearly established federal and state law and Conviction and Sentence should be vacated, Stricken. The court had no valid indictment. Is a fact, abuse of discretion.
- Dated this 18th day of Oct 2013.

MD

[Handwritten signature]
Faron R Hawkins

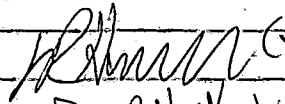
000275

Certificate of Service

I Foran Hawkins did place a true and correct copy in the U.S. mail on the 18th day of Oct 2013 by placing such in the mail at the ISEI facility to the parties below citing the mail box note.

Ada County Prosecutor
Roger Baumer and Jan Baumer
200 W Front St
Boise Id 83702

Clerk of the Court
200 W Front St
Boise Id 83702


Foran R Hawkins

CERTIFICATE OF MAILING

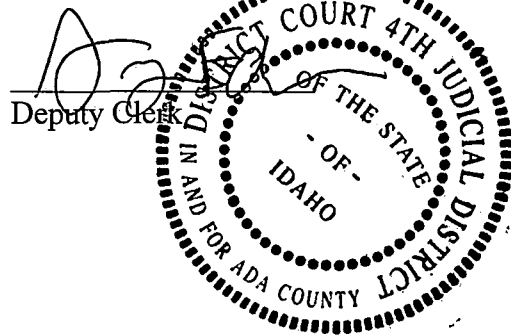
I hereby certify that on this 11th day of November, 2013, I mailed (served) a true and correct copy of the Denial Regarding Motion for New Trial and Motion to Vacate Sentence and Motion to Strike Oct 17th 2013 Hearing Defenses Objection to Said Hearing, Judicial Misconduct.

Faron Hawkins
I.S.C.I.
Unit 15-B-11-A
P.O. Box 14
Boise, ID 83707

Ada County Prosecutor
Attn: Roger Bourne and Jan Bennetts
Interdepartmental Mail

Ada County Public Defender
Attn: August Cahill
Interdepartmental Mail

CHRISTOPHER D. RICH
Clerk of the District Court
Ada County, Idaho



CERTIFICATE OF MAILING

000277

OCT 22 2013

Farm R Hawkins 17833

ISCF

Unit 15-B-11-A

POB 14

Base Id 83707

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

v
Farm R Hawkins
Defendant

Case No. CR-FE-2007-5

Defendants Memorandum of Fact in
Support of Defendants Objection and
Motion to Vacate Conviction and Sentence
on Oct. 17, 2013

Comes now Farm Hawkins Defendant, Pro Se, as to the following facts:

1. Judge (Fake) McLaughlin Denied Suttons motion for extension of time, continuance for Nov. 12th 2010 competency hearing so Sutton would have time to prepare and provide effective counsel as he had just substituted counsel two days prior to hearing with a holiday in the two days.
2. States Closing argument Nov. 12, 2010 page 13 McLaughlin is on record Jan 31st 2008 stating: "And this court - throughout the course of these proceedings and Mr Hawkins representation of himself over many months certainly has no reason to believe that Hawkins has a mental disease or defect that causes him to lack the capacity to understand the proceedings against him or assist in his own defense."

- Idaho Court of Appeals disagreed, vacated and remanded, McLaughlin stated discretion.

- 3 Nov. 22nd 2010 closing argument (written) page 14 Conclusion

"Despite his best efforts at feigning delusions, the defendant didn't understand that he had to keep his delusions consistent over the years with everyone he came into contact with. As Dr Estess testified, the Defendants entire being would be permeated with delusions if the defendant was actually delusional or psychotic. Yet the defendant never mentioned these delusions to the people who knew him best, his common law wife Darcy, and his own mother."

FBI report dated 12-15-06 Scott Maize, SZ006070 thru SZ0060703, Wasco Sheriff's report, Oregon state police and Colorado authorities, plus Roger Bourne and Jon Bennetts own discovery, CR-FE-2007 prove Bourne, Bennetts, McLaughlin, all lied. Darcy did know, for 16 years, and they knew it.

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MO

The entire statement is false. Then the American Association of Psychologists manual DSM IV TR prove Estes either openly lied about the illness symptoms or he is not competent to be diagnosing the illness. Then there is Dr. Claude Robert Cloninger who states Estes, Sample's stated symptoms are "completely wrong."

Judge McLaughlin knew this, refused to hear the motions, issue on judicial notice that the defense knew the truth, had the proof and deliberately

stopped Cloninger from presenting the fact McLaughlin, Bourne, Bennetts are liars, altered, falsified, selected known perjured statements.

Defense points out, McLaughlin violated Rule of mandate by examining the Court of appeals order, directing, decision, and ruled on retroactive comp without Authority.

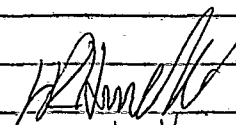
McLaughlin, Bourne, Bennetts, illegally sentenced and reconvicted Hawkins by conspiring together, to protect themselves from being sued with the very proof Cloninger would have shown they are liars.

Defense alleges McLaughlin was clearly biased, prejudiced as he refused to show from all hearings from Jan 31, 2008, thru Oct 17th 2013 when McLaughlin did not even notice up a sentencing hearing.

This court should have never had ~~the~~ been allowed to sit in on the hearing, it should have been an impartial Judge.

Motion to strike and Vacate ~~the~~ Oct 17th 2013 hearing due to the abuse and bad faith, fraud, Prosecutorial and Judicial misconduct.

Dated this 18th Day of Oct. 2013


Karen Hawkins

OCT 24 2013

CHRISTOPHER D. RICH, Clerk
By CHERRY ABBOTT
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

FARON RAYMOND HAWKINS,

Defendant.

Case No. CRFE-2007-00005

AMENDED
JUDGMENT OF CONVICTION

For the State of Idaho: Roger Bourne and Jan Bennetts, Ada County Deputy
Prosecuting Attorneys

For the Defendant: *pro se* with assist Counsel August Cahill, Ada County Deputy
Public Defender

This matter came before the Court on October 17th, 2013. This case had been
remanded to the District Court by the Idaho Supreme Court for a determination on the
defendant's competency during his trial in 2008. In the event the defendant was found
to be competent during his trial then the sentence imposed by the Court on April 23,
2008 would be imposed. The Court had earlier denied the defendant's Idaho Criminal
Rule 35 motion. In the event the defendant was not competent at the time of the
defendant's trial, the Court was to grant a new trial.

1 The Court had heard testimony from Dr. Michael Estes that in his opinion the
2 defendant was competent at the time of his trial. The defendant at that hearing was
3 represented by counsel, John Sutton, who cross examined Dr. Estes. Upon remand
4 the Court ruled that the State had met their burden of demonstrating the defendant was
5 mentally competent during his trial and advised the defendant he had the burden of
6 showing that he was not mentally competent during his trial.

7 The Court advised the defendant that the defendant would be allowed to cross
8 examine Dr. Estes if there was a finding by the defendant's expert that Mr. Hawkins
9 was not competent during his trial. The defendant has insisted at multiple hearings that
10 a psychiatrist from St. Louis, Missouri examine him at public expense. The Court
11 repeatedly denied this request and instructed the defendant to obtain a
12 psychiatrist/psychologist from within 150 miles of Boise. The defendant refused to
13 comply with this order.
14

15 In court on October 17, 2013, the defendant continued to insist on having his out
16 of state expert. The Court then advised the defendant that the Court would appoint Dr.
17 Engle, a Boise psychiatrist to evaluate the defendant. The defendant said that he would
18 not submit to an examination by Dr. Engle and insisted that he be examined by his out
19 of state expert. The Court then gave the defendant an opportunity to discuss the
20 appointment of Dr. Engle with his standby counsel and the defendant continued to
21 insist that he be examined by his chosen expert from St. Louis, Missouri. The Court
22 then advised the defendant that if he did not submit expert testimony from a local
23 psychiatrist/psychologist to rebut the evidence presented by Dr. Estes the Court would
24 proceed to sentence him. The defendant stated in open court that the Court should
25
26

1 sentence him. Based upon the un-contradicted testimony of Dr. Estes, the Court found
2 that the defendant was mentally competent during his trial and that his sentence should
3 be imposed.

4 That, whereas, defendant who had previously been informed of the Indictment
5 filed against him, and the defendant having been found guilty by a jury on January 11,
6 2008 of the crimes of COUNT I: ROBBERY, a felony under I.C. §§ 18-6501, 6502
7 committed on or about December 16, 2005 and COUNT II: ROBBERY, a felony under
8 I.C. §§ 18-6501, 6502 committed on or about June 6, 2006.

9 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the
10 defendant, FARON RAYMOND HAWKINS, is guilty of the crimes of COUNT I:
11 ROBBERY, a felony under I.C. §§ 18-6501, 6502 committed on or about December 16,
12 2005 and COUNT II: ROBBERY, a felony under I.C. §§ 18-6501, 6502 committed on or
13 about June 6, 2006 and that he be sentenced to the Idaho State Board of Correction,
14 under the Unified Sentence Law of the State of Idaho, **on Count I:** for an aggregate
15 term of Life imprisonment, to be served as follows: a minimum period of confinement
16 of thirty (30) years, followed by a subsequent indeterminate period of custody not to
17 exceed Life imprisonment, and **on Count II:** for an aggregate term of Life
18 imprisonment, to be served as follows: a minimum period of confinement of thirty (30)
19 years, followed by a subsequent indeterminate period of custody not to exceed Life
20 imprisonment, said terms to run concurrently with each other and said terms to
21 commence immediately. The defendant shall receive six hundred four (604) days
22 credit for time served as of April 23, 2008 and an additional credit for time served from
23 April 23, 2008 through October 17, 2013 for a total of two thousand six hundred seven
24
25
26

1 (2,607) days of credit for time served.

2 IT IS FURTHER ORDERED that the defendant shall pay restitution to the
3 victim(s) of the defendant's crime in the amount of twenty nine thousand dollars
4 (\$29,000.00).

5 IT IS FURTHER ORDERED that the defendant shall fully comply with the DNA
6 Database Act.

7 IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this
8 Judgment and Commitment to the said Sheriff, which shall serve as the commitment of
9 the defendant.

10 Dated this 23 day of October, 2013, *nunc pro tunc* effective April 23, 2008.

11
12
13 
14 Michael R. McLaughlin
District Judge

CERTIFICATE OF MAILING

I, Christopher D. Rich, the undersigned authority, do hereby certify that I have mailed, by United States Mail, on this 24th day of October, 2013, one copy of the: JUDGMENT OF CONVICTION AND COMMITMENT TO STATE as notice pursuant to Rule 77(d) I.C.R. to each of the attorneys of record in this cause in envelopes addressed as follows:

ADA COUNTY PROSECUTING ATTORNEY'S OFFICE
VIA EMAIL

ADA COUNTY PUBLIC DEFENDER'S OFFICE
VIA EMAIL

ADA COUNTY JAIL
VIA EMAIL

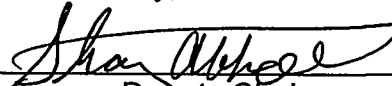
PSI DEPARTMENT/P&P
VIA EMAIL

DEPARTMENT OF CORRECTION
VIA EMAIL

Faron Raymond Hawkins
Inmate No. 17833
I.S.C.I. Unit 15
P.O. Box 14
Boise, ID 83707

CHRISTOPHER D. RICH
Clerk of the District Court
Ada County, Idaho

By


Deputy Clerk

NOV-05-2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

Faron R. Hawkins
ISCI. 17833
POB 14
Box Id 83707

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho
Plaintiff

vs

Faron R. Hawkins
Defendant

Case No. CR-FE-2007-5

Notice of Appeal

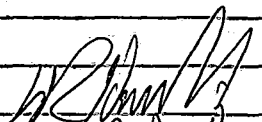
AND

Motion to Appoint Public Defender.

Comes Now Defendant, Faron Raymond Hawkins, Do Se, Moves this Court as follows:

1. Defendant appeals the decision of the Court to the Idaho Supreme Court/Court of Appeals.
2. Defendant moves this Court to immediately appoint the State Appellant Public Defender to represent the defendant before the time limit runs out to appeal.

Dated this 24th day of October 2013


Faron R. Hawkins

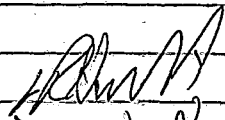
Attitude of Service.

I Foran R Hawkins did place a true and correct copy of the document in the U.S. Mail on the 24th day of October 2013 in the IDCI mail Resource Center, to the parties below.

Ada County Prosecutor
200 W Front St.
Boise Id 83702

Ada County Courthouse
Clerk of the Court
200 W Front St
Boise Id 83702

SAPD
Harbor
Boise Id 83705


Foran Hawkins

189
ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant
200 W. Front, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400

FILED
A.M. P.M.

NOV 15 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO)	
)	
Plaintiff-Respondent,)	
)	
vs.	)	Criminal No. CR-FE-2007-000005
)	
	)	NOTICE OF APPEAL
FARON RAYMOND HAWKINS,)	
)	
Defendant-Appellant.)	
)	

TO: THE ABOVE NAMED RESPONDENT, GREG BOWER, ADA COUNTY
PROSECUTOR, AND THE CLERK OF THE ABOVE ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the final Decision and Order entered in the above-entitled action on the 8th day of November, 2013, the Honorable Michael R. McLaughlin, District Judge presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R.) 11(c)(1-10).
3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

NOTICE OF APPEAL, Page 1

000287

- (a) Courts retro-active finding that Defendant was competent at the time of his original trial (Order filed December 6, 2010).
- (b) Use of testimony regarding competency presented November 12, 2010 to establish competency post-remittitur.
- (c) Court's limitations put upon Appellant's choice of expert witnesses.
- (d) Court's refusal to consider Appellant's Pro Se Motions.
- (e) Court's procedural ruling concerning sentencing.
- (f) Court's abuse of discretion in sentencing.

4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Pre-Sentence Investigation Report (PSI).

5. **Reporter's Transcript.** The appellant requests the preparation of the **entire reporter's standard transcript** as defined in I.A.R. 25(c). The appellant also requests the preparation of the additional portions of the reporter's transcript:

- (a) Hearing held: November 12, 2010
Court Reporter: T. Fisher
Estimated pages: 500
- (b) Hearing held: May 29, 2013
Court Reporter: F. Morris
Estimated pages: 50
- (c) Hearing held: June 17, 2013
Court Reporter: none - recording only
Estimated pages: 100
- (d) Hearing held: July 3, 2013
Court Reporter: S. Gambee
Estimated pages: 50

- (e) Hearing held: July 17, 2013
Court Reporter: F. Morris
Estimated pages: 100
- (f) Hearing held: July 30, 2013
Court Reporter - none - recording only
Estimated pages: 100
- (g) Hearing held: August 7, 2013
Court Reporter: T. Fisher
Estimated pages: 100
- (h) Hearing held: October 17, 2013
Court Reporter: D. Cromwell
Estimated pages: 100

6. **Clerk's Record.** The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2):

- (a) All items, including any affidavits, objections, responses, briefs or memorandums, offered in support of or in opposition to the:

- 1. **Defendant's Motion of Fact In support of Objection**

- 2. **Motion to Vacate Conviction and Sentence on October 17, 2013**

- 3. **Motion for New Trial**

- 4. **Defenses Objection to Hearing on October 17, 2013, and**

- 5. **Judicial Misconduct**

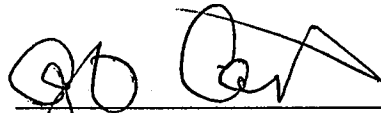
filed or lodged, by the state, appellant or the court;

- (b) Any exhibits, including but not limited to letters or victim impact statements, addendums to the PSI or other items offered at sentencing hearing.

7. I certify:

- (a) That a copy of this Notice of Appeal has been served on the Court Reporter, T. Fisher, F. Morris, S. Gambee, and D. Cromwell;
- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- (c) That there is no appellate filing fee since this is an appeal in a criminal case (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- (d) That Ada County will be responsible for paying for the reporter's transcript, as the client is indigent, I.C. §§ 31-3220, 31-3220A, I.A.R. 24(e); and
- (e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.

DATED this 15th day of November, 2013.



AUGUST H. CAHILL
Stand in Counsel for
Pro Se Appellant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, That on the 15th day of August, 2013, I
mailed true and correct copies of the foregoing, NOTICE OF APPEAL
to:

KENNETH K. JORGENSEN
DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
P.O. BOX 83720
BOISE, ID 83720-0010

D. CROMWELL
T. FISHER
F. MORRIS
S. GAMBEE
HONORABLE JUDGE McLAUGHLIN'S COURT REPORTERS


Stephanie Martinez

K69

NOV 20 2013

Faron R Hawkins

IDOC 17833

ISCI

POB 14

Boise ID 83707

Appellant

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

Faron Raymond Hawkins
Petitioner - Appellant

Y
State of Idaho
Respondent

Case No. CR-FE-2007-5
S.C. Docket No.

Notice of Appeal

To: The above named respondent, State of Idaho, and the parties Attorneys, State of Idaho
Prosecuting Attorney and clerk of the above entitled Court:

Notice is hereby given that:

1. The above named appellant appeals against the above named respondent to the Idaho Supreme Court from the conviction and judgment entered in the above entitled action rendered on the 17th day of October 2013, Judge Michael McLaughlin presiding.
2. The party has a right to appeal to the Idaho Supreme Court and the judgments or orders described in paragraph 1 above are appealable orders, judgments, under and pursuant to Rule IAR 11(C)(1-10) and under Idaho and Federal Constitutional law.
3. A preliminary statement of the issues on appeal, which the appellant intends to assert in the appeal, provided any such list of issues shall not prevent the appellant from asserting other issues on appeal are:
A. Prosecutors Roger Bourne and Jan Bennett's did factually commit slander, libel, solicited known perjured, false testimony, did alter, falsify, conceal official government records, admitting such into Court record, argue known fraudulent evidence, Attorney, falsifying, concealing their own state decrying to gain a fraudulent and unfairly prejudicial advantage in their prosecution.
B. Commit criminal code violations of 18-3201 and 18-3203 Attorney falsifying official government record, knowingly, intentionally, in bad faith, committing prosecutorial misconduct before the state, district court, court of Appeals, Idaho Supreme Court to gain a fraudulent judgment

- C. Judge McLaughlin knowingly, willfully, in bad faith violated Judicial Canons, committed Judicial misconduct, purposely, with bias, prejudice, abused discretion, violated Rule of mandate, conspired to aid the state prosecutors to gain an unfairly prejudicial advantage by denying due process of law, making a retroactive finding against the Rule of mandate ordered by the Idaho Court of Appeals, prior to appeal to Idaho Supreme Court, denying his own order requiring him to hold a competency hearing as he stated that is what the Idaho Supreme Court ordered him to do. Denying all defendant motions to be heard that McLaughlin knew would prove the Court and Bourne and Bennetts committed fraud, and had conspired together to obtain a known fraudulent ruling. Example FBI Report in state discovery 12-15-08 proves Bourne and Bennetts and McLaughlin all knew Danny knew about Hawkus and CIA for over 16 years, yet Bourne, Bennetts, McLaughlin, hid it, altered it, from record.
- D. Denied required ruling of Idaho Court of Appeals, new trial or go free if competent.
- E. Denied Farrela inquiry in 2010, 2011 prior to going prose, yet considered incompetent.
- F. Denied all witness at trial due to Roger Bourne, Bennetts, letter dated Jan 24th 2008.
- G. Denied all discovery.
- H. Denied preliminary hearing; Six times.
- I. Denied 6th Amend right to counsel prior to custody interrogation.
- J. Invalid indictment, Rule 6.2, 6.8, 6.7, unity issue in charges unfairly prejudicing second charge without admission, No signed indictment in grand jury form, properly sealed.
- K. Ineffective counsel, Dennis Benjamin failed to include denied witness in first appeal, which would have prevented IAR 12 Interlocution.
- L. Ineffective counsel, Eric Fredericksen refused to gain informed consent prior to appearing before Idaho Supreme Court, when Hawkus wrote and told him not to argue or represent without it.
- M. Denied 6th Amend Counsel after Sutter withdrew Nov 12th 2010 to Notice of Appearance in Jan 2012 by Eric Fredericksen.
- N. ~~Denial~~ Ineffective Counsel John Eric Sutter, unprepared, failed to make closing arguments, failed to gain rebuttal testimony, failed to know the case, failed to gain a doctor prior to hearing. Refused to gain informed consent from defendant, hired by third party. No fee agreement.
- O. McLaughlin, Bourne, Bennetts on record, openly conspired to violate Rule of mandate, reverse, due process, disobeying higher court of appeals order to only grant new trial or release if competent.
- P. Denied review of presentence report in 2008 and 2013. Never have seen it, and it's (costs) are fraudulent to enhance sentencing.

4. There is a portion of the record that is sealed, PSI and Nov. 15th 2007.
5. the appellant requests the preparation of the entire reporter's standard transcript as defined in IAR 25(A). The appellant also requests the preparation of the following portions of the reporter's transcript.

- A. Oct. 17th 2013 reconviction, resentencing status hearing
- B. Nov. 12 2010 competency hearing.
- C. All hearings from Jan 2013 to Oct 2013

6. The appellant requests the standard clerk's record pursuant to IAR 28(B)(2)

- A. All briefs, memorandums
 - B. All motions, attachments, affidavits
 - C. All items in the criminal case which court did or was motioned for to take judicial notice.
7. I certify that a copy of this Notice of Appeal has been served upon the reporter.
- A. Defendant, petitioner, Harold, appellant is exempt from paying preparation of record de facto indigent.
 - B. Appellant motions for State Appellant Public defender to represent on this above case

8. Service has been made on all parties as required by IAR 20.

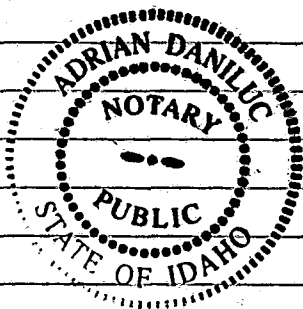
Dated this 17th day of November 2013.

Foran Raymond Harold

Foran Raymond Harold

Appellant

Subscribed and Sworn to me on this 18th day of Nov. 2013



[Signature]

Notary for Idaho

My subscription expires: 07/16/2019

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant
200 W. Front St., Ste. 1107
Boise, Idaho 83702
Telephone: (208) 287-7400

RECEIVED
NOV 15 2013
Ada County Clerk

NO. _____ FILED _____
A.M. _____ P.M. _____

NOV 26 2013

CHRISTOPHER D. RICH, Clerk
By AMY EDWARDS
DEPUTY

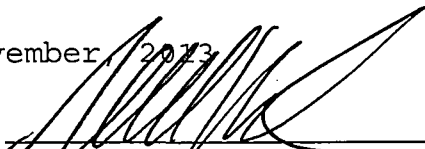
IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO)	
)	
Plaintiff-Respondent,	)	Criminal No. CR-FE-2007-0000005
)	
vs.)	
)	
FARON R. HAWKINS,	)	ORDER APPOINTING STATE
	)	APPELLATE PUBLIC DEFENDER
Defendant-Appellant.	)	ON DIRECT APPEAL
)	

The above-named Defendant, FARON R. HAWKINS, being indigent and having heretofore been represented by the Ada County Public Defender's Office in the District Court, and said Defendant having elected to pursue a direct appeal in the above-entitled matter;

IT IS HEREBY ORDERED, AND THIS DOES ORDER, That the Idaho State Appellate Public Defender is appointed to represent the above named Defendant, FARON R. HAWKINS, in all matters pertaining to the direct appeal.

DATED This 25 day of November, 2013


MICHAEL R. McLAUGHLIN
District Judge

ORDER APPOINTING STATE APPELLATE
PUBLIC DEFENDER ON DIRECT APPEAL

000295

PE

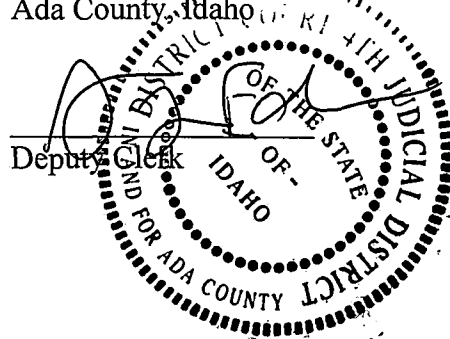
CERTIFICATE OF MAILING

I hereby certify that on this 26th day of November, 2013, I mailed (served) a true and correct copy of the within instrument to:

ADA COUNTY PUBLIC DEFENDER
ATTN:AUGUST CAHILL
VIA: INTERDEPARTMENTAL MAIL

KENNETH K. JORGENSEN
DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
P.O. BOX 83720
BOISE, ID 83720

CHRISTOPHER D. RICH
Clerk of the District Court
Ada County, Idaho



CERTIFICATE OF MAILING

000296

189

Foran Raymond Hawkins

IDOL 17833

ISCI

POB 14

Boise, Idaho 83707

Defendant

NO. Denial
A.M. 11:40 FILED P.M.

DEC 04 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

DEC 13 2013

CHRISTOPHER D. RICH, Clerk
By BRADLEY J. THIES
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

State of Idaho

Plaintiff

v.

Foran Raymond Hawkins

Defendant

Case No. FE-07-5

Motion for Reduction of Sentence

I.C.R. 35

Denial
12/12/13
[Signature]

Comes Now Foran Raymond Hawkins, Pro Se, Defendant in a motion for
I.C.R. 35 Reduction of Sentence as to the following:

1. Sentence:

- A. Judge McLaughlin Oct 17th 2013 30 years to life.
- B. Two Counts of Bank Robbery without weapon.

2. Sentence is unreasonable because-

- A. Defendant has 27 years clear record prior to conviction.
- B. No weapon was involved, no one touched, no one physically harmed.
- C. Sentence is highest sentence ever handed down for like crime.
- D. Sentence is disproportionate in comparative sentencing.
- E. McLaughlin personally sentenced another defendant to 15 years for the stalking, planning and murder of another man. McLaughlin sentenced another defendant to 6 years for impersonating a police officer while robbing a bank. State v R. Hall and State v Coleman both McLaughlin cases.

3. Defendant was denied his right to review a copy of the presentence report enabling him to refute and correct errors, false statements used by Judge McLaughlin in sentencing, denied in 2008 prior to sentencing and again in 2013 prior to sentencing. Defendants lawyers have stated the presentence evidence submitted to presentence investigator is untrue. Defendant's right to review is a law in Idaho.
4. McLaughlin applied an unreasonably inconsistent standard to the defendant in sentencing. Bias, Prejudice in the unreasonable sentence unsupported by the crime, history, and punishment.
5. Defendant was promised by McLaughlin he would review a hearing to determine facts and did not have to call anyone but Dr. Fisher and ask him questions, "you do not even need discovery," stated McLaughlin.
6. Judge Moody, while deputy attorney General is on record agreeing the defendant would be released in a year. Moody is seen nodding in agreement to the release of the defendant. In front of Attorney Steve Fisher, the defendant was to receive this consideration of resentencing. This was denied.
7. The sentence, after jurists would find unreasonable and come to another conclusion.
8. The defendant's record while in prison is exceptional and proves the defendant would be a model citizen.
9. In 2008 the prosecutor stated he would recommend 7 years to 25 years. This again shows a unreasonable sentence of 30 years life. It also shows retaliation for taking the case to trial.

Moves for a reduction of sentence for immediate release.

Dated this 24th day of Nov. 2013

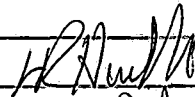
Faron R. Hawkins
Faron R. Hawkins

Certificate of Service

I, Foran R Hawkins, defendant, Pro Se, does hereby certify I placed the foregoing in the U.S. Mail to the following parties on this 24th day of Nov. 2013 by placing such copies, true, correct, in the mail at the I.Dal. as verified by the law resource center.

Ada County Courthouse
Clerk of the Court
200 W Front St
Boise Id 83702

Ada County Prosecutor
200 W Front St
Boise Id 83702


Foran R Hawkins

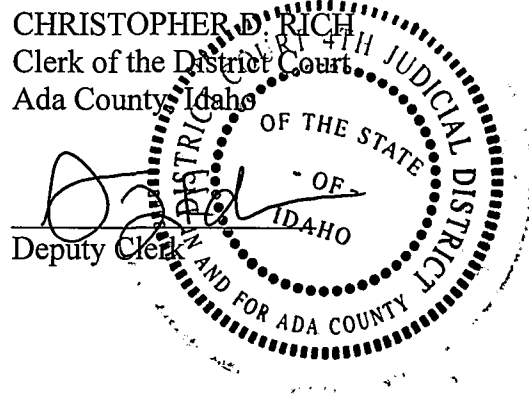
CERTIFICATE OF MAILING

I hereby certify that on this 13th day of December, 2013, I mailed (served) a true and correct copy of the Denial of the Motion for Reduction of Sentence to:

Faron Hawkins
IDOC 17833
ISCI
P.O. Box 14
Boise, ID 83707

Ada County Prosecutor
Interdepartmental Mail

Ada County Public Defender
Attn: August Cahill
Interdepartmental Mail



189

NO 8/12
A.M. 8 FILED 8 P.M.

DEC 16 2013

CHRISTOPHER D. RICH, Clerk
By SARA WRIGHT
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jan M. Bennetts
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
Facsimile: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
FARON RAYMOND HAWKINS,)
)
Defendant.)
_____)

Case No. CR-FE-2007-0000005

**STATE'S OPPOSITION TO
DEFENDANT'S MOTION FOR
REDUCTION OF SENTENCE,
I.C.R. 35**

COMES NOW, Jan M. Bennetts, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and opposes the Defendant's Motion for Reduction of Sentence for the following reasons.

Idaho Criminal Rule 35 permits the Court to correct a sentence that is either illegal or imposed in an illegal manner. *See* I.C.R. 35(a)-(b). Rule 35 also provides, in pertinent part, that the Court may reduce a sentence within 120 days after the filing of a judgment of conviction. On October 17, 2013, this Court reinstated the original sentence which this Court had imposed on

SW

April 23, 2008. This Court imposed a life sentence with thirty (30) years fixed for two counts of robbery for which the Defendant was convicted after a jury trial in January 2008.

This Court presided over the jury trial in this case and is, therefore, well familiar with the facts and circumstances of the two robberies. In summary, this Defendant was convicted for robbing two banks, Key Bank and Washington Mutual. The Defendant claims that this Court's sentence is unreasonable.

The Defendant's sentence is appropriate in light of all of the surrounding circumstances in this case. The Defendant has a lengthy criminal history, dating back to 1978. He has prior robbery convictions as follows: 1978 Oklahoma, 1978 Horseshoe Bend, and 1982 Oregon. He has prior convictions for escape in 1979 and 1982. He has a prior burglary conviction from 1982. These two robbery convictions in the present case represented his fourth and fifth robbery convictions and his seventh and eighth lifetime felony convictions.

As this Court was well aware at the time of sentencing, the Defendant stole a pickup and a camper he was living in at the campsite in Oregon where he fled after he committed the robberies in Boise. The Defendant pointed a gun at the head of one of the officers who was trying to determine what was occurring at this campsite where the Defendant was located. The Defendant was then involved in a lengthy standoff with law enforcement in Oregon. He later told Detective Rosebraugh that he would have shot the first officer who was investigating what was occurring at the campsite had he seen a weapon. He told the detective he knew that they were officers knocking at his door. The Defendant fired at least one shot at the officers approaching his camper.

The Defendant was violent with his wife. He told the detective that he had burned matches on her buttocks and had pointed a firearm at her. He indicated that he wanted to shoot

her in the leg but the children were present. The Defendant not only put his wife and children in danger during the standoff with law enforcement, but he endangered law enforcement and the public.

This Defendant represents a danger to the community, to law enforcement and to his family. He is a career criminal who not only has a lengthy criminal history, but who orchestrated and participated in robberies committed by his stepsons in Colorado.

He contends in his Rule 35 Motion that he did not physically harm anyone. However, at the sentencing hearing, one of the victims told this Court during her victim impact statement that although she had been a victim of robbery before, this one had the worst impact on her life. (Transcript at page 1185.) She told the Court “I did suffer.” (*Id.*) “And not that sleeplessness is a horrible thing, but just the nightmares that I encountered. In my mind, I can still remember them three years later.” (*Id.*) These were not victimless crimes.

Moreover, the Defendant’s attorney made that same argument to the Court on the Defendant’s behalf at sentencing when describing the robberies: “But there was no weapon used, and I think that it does matter. There was certainly no rounds fired in any bank.” (Transcript at 1198.) His attorney also argued to the Court that he had 19 years of “good behavior.” (*Id.* at 1199.)

The Defendant also contends that he was denied his right to review the PSI and he was denied the ability to refute and/or correct errors. The transcript of the sentencing hearing establishes otherwise. In fact, the Defendant was represented by defense counsel who did object to certain materials in the PSI. (*See* Transcript at pages 1180-1184.) This Court determined that it would not consider those materials in making its sentencing decision. (Transcript at page 1183.) In addition, the Defendant was given an opportunity to speak to the Court at sentencing

and the Defendant himself pointed out portions of the PSI he wanted the Court to correct. (*See* Transcript at pages 1200-1204.) Clearly, the Defendant had reviewed the PSI prior to the sentencing hearing or he would not have made the references to the PSI during his statement to this Court at sentencing. Further, the Defendant had the opportunity to correct or refute any errors in the PSI because he pointed out those corrections to the Court at sentencing.

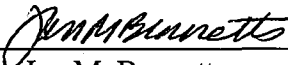
The Defendant also made a proportionality argument to the Court similar to the one he is making in this Rule 35 Motion. (*See* Transcript at page 1203.) The Defendant also made a similar argument at sentencing to the argument he is making in his Rule 35 Motion here regarding pretrial negotiations. (*Id.* at page 1205.)

There is nothing new in the Defendant's Rule 35 motion that this Court has not already considered in fashioning the appropriate sentence. At sentencing in this case, this Court considered the statutory sentencing factors and determined ultimately that "... a lesser sentence, the request for a sentence that would release you back into society, potentially, through parole, I think seriously would depreciate what happened here. Because this isn't just about these serious bank robberies and those individuals – innocent individuals just doing their job and being placed in this situation. Because a bank robbery – no matter how cool, calm, and collected the person is – it can become very dangerous. It can become – it can go out of control." (Transcript at page 1208.)

This Court considered all factors and circumstances in fashioning the sentence in this case. The sentence was appropriate in light of all of the facts and circumstances in this case, including the Defendant's lengthy criminal history. This Court's sentence was lawful and should not be reduced. Accordingly, the State requests this Court deny the Defendant's Rule 35 Motion.

DATED this 16th day of December 2013.

GREG H. BOWER
Ada County Prosecuting Attorney

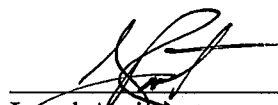
By: 
Jan M. Bennetts
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16 day of December 2013, I caused to be served, a true and correct copy of the foregoing State's Opposition to Defendant's Motion for Reduction of Sentence, ICR 35 upon the individual(s) named below in the manner noted:

Name and address: Faron Hawkins, c/o IDOC No. 17833, ISCI PO Box 14, Boise, Idaho 83707 and August Cahill, Ada County Public Defender, 200 W. Front Street, Rm. 1107, Boise, Idaho 83702

- ☒ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☒ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____


Legal Assistant

TO: Clerk of the Court
Idaho Supreme Court
451 West State Street
Boise, Idaho 83720
(208) 334-2616

NO. _____
A.M. 8:32 FILED _____
P.M. _____

JAN 22 2014

CHRISTOPHER D. RICH, Clerk
By **KELLE WEGENER**
DEPUTY

IN THE SUPREME COURT OF THE STATE OF IDAHO

----- x Docket No. 41621
STATE OF IDAHO, :
 :
 :
 Plaintiff-Respondent, :
 :
 :
 vs. :
 :
 :
 FARON RAYMOND HAWKINS, :
 :
 :
 Defendant-Appellant. :
----- x


NOTICE OF TRANSCRIPT OF 146 PAGES LODGED

**Appealed from the District Court of the Fourth Judicial
District of the State of Idaho, in and for the County of Ada,
Honorable Michael McLaughlin, District Court Judge.**

This transcript contains:

11-11-10	Competency Hearing
06-17-13	Indigency Hearing
07-31-13	Status Conference

DATE: January 17, 2014



Tiffany Fisher, Official Court Reporter
Official Court Reporter,
Judge Melissa Moody
Ada County Courthouse
Idaho Certified Shorthand Reporter No. 979
Registered Professional Reporter

NO. _____
A.M. 8:32 FILED P.M. _____

Fax: 334-2616

JAN 22 2014

CHRISTOPHER D. RICH, Clerk
By KELLE WEGENER
DEPUTY

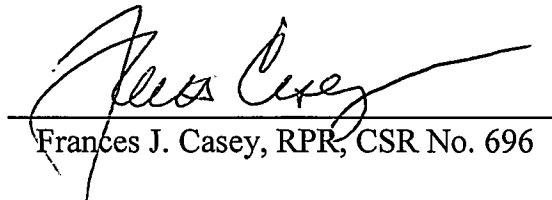
In the Supreme Court of the State of Idaho

State of Idaho)
Plaintiff-Appellant)
v)
Faron Raymond Hawkins,)
Defendant-Respondent,)

Docket No. 41621-2013

Notice of Transcript Lodged

Notice is hereby given that on January 20, 2014,
I lodged one (1) original and three (3) copies of transcripts 32 pages in length,
as listed below, for the above referenced appeal with
the District Court Clerk of Ada County, Fourth Judicial District.



Frances J. Casey, RPR, CSR No. 696

TRANSCRIPTS LODGED

Hearing - 5/29/13
Hearing - 7/17/13

TO: Clerk of the Court
Idaho Supreme Court
451 West State Street
Boise, Idaho 83720
(208) 334-2616

NO. _____
A.M. 8:32 FILED P.M. _____

JAN 22 2014
CHRISTOPHER D. RICH, Clerk
By KELLE WEGENER
DEPUTY

IN THE SUPREME COURT OF THE STATE OF IDAHO


- - - - - x Docket No. 41621
STATE OF IDAHO, :
Plaintiff-Respondent, :
vs. :
FARON RAYMOND HAWKINS, :
Defendant-Appellant. :
- - - - - x

NOTICE OF TRANSCRIPT OF 32 PAGES LODGED

Appealed from the District Court of the
Fourth Judicial District of the State of
Idaho, in and for the County of Ada,
Michael R. McLaughlin, District Court Judge.

This transcript contains hearing held on:
July 3, 2013

DATE: January 6, 2014



Susan G. Gambee, Official Court Reporter
Official Court Reporter,
Judge Deborah Bail
Ada County Courthouse
Idaho Certified Shorthand Reporter No. 18
Registered Merit Reporter

NO. _____
A.M. 8:32 FILED P.M. _____

JAN 22 2014

CHRISTOPHER D. RICH, Clerk
By KELLE WEGENER
DEPUTY

Stephen W. Kenyon
Clerk of Supreme Court
451 W State Street
Boise, Idaho 83720

In re: State of Idaho v. Faron Raymond Hawkins, Docket No. 41621

Notice is hereby given that on Tuesday, December 31, 2013, I lodged a transcript of 22 pages in length for the above-referenced appeal with the district court clerk of Ada County in the Fourth Judicial District.

The following files were lodged:

Proceeding 10/17/2013

David Cromwell
Tucker & Associates

cc: kloertscher@idcourts.net
PDF format of completed files emailed to Supreme Court

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,
vs.
FARON RAYMOND HAWKINS,

Defendant-Appellant.

Supreme Court Case No. 41621

CERTIFICATE OF EXHIBITS

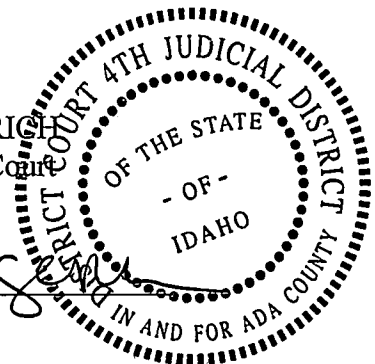
I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho in and for the County of Ada, do hereby certify:

There were no exhibits offered for identification or admitted into evidence during the course of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 22nd day of January, 2014.

CHRISTOPHER D. RICH
Clerk of the District Court

By *K. W. Segal*
Deputy Clerk



IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

FARON RAYMOND HAWKINS,

Defendant-Appellant.

Supreme Court Case No. 41621

CERTIFICATE OF SERVICE

I, CHRISTOPHER D. RICH, the undersigned authority, do hereby certify that I have personally served or mailed, by either United States Mail or Interdepartmental Mail, one copy of the following:

LIMITED CLERK'S RECORD AND REPORTER'S TRANSCRIPT

to each of the Attorneys of Record in this cause as follows:

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

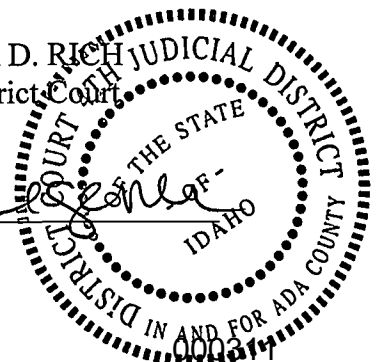
BOISE, IDAHO

Date of Service: JAN 22 2014

CERTIFICATE OF SERVICE

CHRISTOPHER D. RICH
Clerk of the District Court

By [Signature]
Deputy Clerk



IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

FARON RAYMOND HAWKINS,

Defendant-Appellant.


Supreme Court Case No. 41621

CERTIFICATE TO RECORD

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, do hereby certify that the above and foregoing record in the above-entitled cause was compiled under my direction as, and is a true and correct record of the pleadings and documents that are automatically required under Rule 28 of the Idaho Appellate Rules, as well as those requested by Counsel.

I FURTHER CERTIFY, that the Notice of Appeal was filed in the District Court on the 15th day of November, 2013.

CHRISTOPHER D. RICH
Clerk of the District Court

By 
Deputy Clerk

CERTIFICATE TO RECORD

